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Chief Administrative Officer

June 13, 2006

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To: Mayor Michael D. Antonovich  
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Supervisor Yvonne B. Burke  
Supervisor Zev Yaroslavsky  
Supervisor Don Knabe

From: David E. Janssen  
Chief Administrative Officer

**PROPOSED GLENDORA REDEVELOPMENT PROJECT NO. 5 ADOPTION,  
MERGER, AND AMENDMENT**

On May 18, 2004, I sent your Board a routine memorandum regarding the Preliminary Report issued by the Glendora Redevelopment Agency on the proposed Project Area No. 5 Adoption, Merger, and Amendment. This memorandum is to advise you of the status of this project. As we informed you in the 2004 memorandum, the City of Glendora is proposing to adopt a new project area, merge its existing project areas, reinstate authority for eminent domain, and increase project lifetime cap limitations.

My staff expressed our concerns to the City that the proposal did not conform to current Community Redevelopment Law (CRL) as early as May 2003. After numerous site visits, analysis of the Agency's findings, and lengthy negotiations with City staff, we were unable to reach a satisfactory resolution of our concerns. Therefore, in order to preserve your Board's options in determining a potential course of action, we will file a Statement of Objections with the City consistent with their public hearing on this project on June 13, 2006. Failure to voice opposition at the hearing could preclude the County from legally challenging the proposed project at a later date.

After presentation of our Objections, the City will be required to respond to the points raised. Should this process not resolve our concerns, your Board may wish to consider litigation. Attached is a copy of the Statement of Objections.

The Statement of Objections addresses the following:

- The areas proposed to be included in Project Area No. 5 do not qualify as physically or economically blighted under current CRL. The photographic and video evidence of Area No. 5 produced by my staff in conjunction with County Counsel includes a well kept residential neighborhood and modern shopping centers.

- Project Area No. 3 is approaching its lifetime cap on the receipt of tax increment, when the County share of taxes diverted since 1976 (now roughly \$2 million each year) was expected to be returned. Current CRL requires that increasing a project's cap must be justified by the need to cure significant remaining blight. Again, we believe our photographic and video evidence presents the Route 66 project area as a bustling commercial corridor, showing few examples of deteriorated physical or economic conditions, or that these conditions seriously burden the community. The Agency's documentation relies extensively on factors, such as peeling paint, the hypothesized existence of asbestos or lead-based paint in older construction, and cracked sidewalks.
- The Agency's photographic evidence, findings, and analysis was largely completed in 2004, and is therefore, outdated and misleading. The County presents evidence showing that conditions in some areas have changed significantly.
- The rationale used throughout the Report to Council characterizes as "blighted" existing properties that generate less than optimal taxes; this violates CRL and recent court decisions.
- The Agency provides detailed parcel-by-parcel supplemental findings for Project Area No. 3. However, a majority of these findings illustrate minor code violations, such as missing antisiphon valves on exterior faucets, the use of non-tempered glass, and improperly striped ADA parking. These types of conditions might demand more aggressive code enforcement, but do not qualify as blight justifying tax diversion.

If you have any questions at this time, please call me, or your staff may call Robert Moran of my office at (213) 974-1130.

DEJ:MKZ  
RTM:pg

Attachment

c: Raymond G. Fortner, County Counsel  
J. Tyler McCauley, Auditor-Controller

# **STATEMENT OF OBJECTIONS**

**TO**

**THE PROPOSED GLENDORA REDEVELOPMENT PROJECT AREA NO. 5  
ADOPTION, MERGER, AND AMENDMENT**

**BY**

**THE COUNTY OF LOS ANGELES**

**June 2006**

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## SUMMARY

The Glendora Community Redevelopment Agency of the City of Glendora is proposing to adopt the Glendora Redevelopment Project Area No. 5 Adoption, Merger, and Amendment. The proposed actions would: establish a new project area (No. 5) of approximately 180 acres; merge the existing Project Areas (Nos. 1, 2, and 3) with new Project No. 5 to create a single project area; extend by 12 years the date for commencing eminent domain in the Merged Project Area; and increase the limit on the amount of tax increment the Agency may collect from the existing Project Areas to \$425 million.

Based on an analysis of the Agency's May 7, 2004 Preliminary Report, the May 12, 2006 Report to City Council, site visits, meetings with City staff, and supplemental reports, the County of Los Angeles believes that the proposed actions do not meet the requirements of Community Redevelopment Law (CRL) concerning the existence of blight, the inclusion of non-blighted parcels, and the proposed merger and increase in the limit to receive tax increment. The Agency's reports lack substantial supporting evidence or a discussion of specific deficiencies in specific properties that, taken together, predominate and burden the entire project area, as required by CRL. Rather, the support presented by the Agency consists almost entirely of generalizations, assumptions, non-sequiturs and recitals of the statutory language.

Specifically, the County of Los Angeles has the following objections:

- The Agency states that one of the "purposes" of the Redevelopment Plan for the Merged Glendora Redevelopment Project is to "Consolidate the limits on the amount of tax increment the Agency may collect from the Existing Project Areas, and increase that amount to \$425,000,000." (Proposed Redevelopment Plan, Section 120, No. 4). There is no authority in the Community Redevelopment Law for the "consolidation" or mingling of tax increment limits from different plans.
- Glendora Redevelopment Project No. 2 was adopted prior to October 1, 1976. As such, there is no provision for amending its tax increment cap.
- The Report to Council admits there is no need to amend the tax increment cap imposed on Project No. 1. On page 153 of the Report to Council, it is conceded that the existing cap for Project No. 1 is "very high" and that it is "very unlikely that the total tax receipts from Project No. 1 will ever reach such a high amount."
- Only after sifting through legally and factually indefensible "increases" of the Project Nos. 1 and 2 caps, does it become apparent that the Report to Council's central purpose is an effort to increase Project No. 3's cap. But the Report to Council fails to support the determinations required

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by Section 33354.6 that a tax diversion increase be justified by a need to restore blighted areas.

- Even apart from any increases in tax increment caps, the Report to Council fails to demonstrate the “substantial benefit to the public” needed to substantiate the proposed merger of the Existing Projects, as well as their merger with a proposed new Project No. 5.
- The Report to Council demonstrates that the Existing Project Areas have ample tax increment flow to pay for such minor remediation needs as may remain.
- The proposed projects for Project No. 5 are far too generic, based on “an illustrative program” of *possible* activities which further reveal the insufficiency of the Agency's attempt to show blight. Moreover, the Project No. 5 claim of financial feasibility clashes with the “substantial public benefit” justification for merger.
- The only substantive Project No. 5 expenses the Report to Council puts forward are a wish list of public improvements. The Legislature removed infrastructure inadequacy as a redevelopment justification in its 1993 reforms.
- The rationale used throughout the Report to Council that characterizes as “blighted” existing properties that generate less than optimal taxes violates the *Sweetwater* decision.
- The Agency's photographic evidence does not indicate a date or time; however, the Agency admits that it was prepared for the reports in 2004. The County will present current photographic and video evidence which demonstrates that in a number of cases, the Agency photographs purporting to document blight are outdated and misleading because of dramatic changes since 2004.
- The Agency claims that because buildings are old, they are “likely” to have seismic and electrical deficiencies and/or contain hazardous materials (lead based paint and asbestos). No evidence is presented to substantiate these claims, much less that they make the buildings unsafe or unhealthy in which to live or work and no program is offered to remediate these purported problems.
- The methodology presented to demonstrate physical blight is flawed because the over-broad conditions used to define “deterioration” affords no basis to determine if buildings are unsafe or unhealthy for human occupancy.

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- The Agency labels a number of adjacent land uses "incompatible," but does not explain the label or discuss how these adjacencies create specific problems that prevent economic development.
  - Irregular or inadequately sized parcels exist primarily in a well-maintained older residential neighborhood that has lots deemed insufficiently sized only due to a change in the City's General Plan.
  - The Agency seeks to characterize property value growth between 1994 and 2003 of 29.5% as depreciated or stagnant.
  - Unnamed sources from the City's Police Department indicate a "steady increase" in crimes in the proposed Project Area, with one shopping center experiencing a "200% increase" since 2001. But no details or baseline are given making it impossible to conclude that Project area crime "constitutes a serious threat to the public safety and welfare."
  - The discussion of remaining blight in the existing Project Areas (Nos. 1, 2, and 3) is woefully inadequate, and contains neither adequate discussion of nor support for, the showing required by Section 33354.6 of the CRL: identification of remaining blight; the areas no longer blighted; the projects required to eradicate the remaining blight; and the relationship between the cost of the proposed project and the proposed increase in the limitation to receive tax increment.
  - The Preliminary Report of record was released in May of 2004, and the majority of the analysis in the Report to Council is taken from this earlier Preliminary Report. As mentioned above, many of the Agency photographs are outdated. It appears that much of the other evidence presented by the Agency is also outdated, and the material should have been revised to present a clear picture of the current status of the project areas. The failure of the Agency to present current data does not allow for an adequate public review of the proposed project or provide support to make required findings.
  - Current law requires the Preliminary Report to be issued 90-days prior to the adoption of the project at the Joint Public Hearing. The Agency violated this requirement by not issuing an updated Preliminary Report. The Report to Council, a voluminous report and two boxes of backup materials were delivered to the County on May 23<sup>rd</sup>, a mere three weeks prior to the scheduled adoption of the project on June 13, 2006. The County expressed its desire to receive the Report to Council at least 30 days prior to the Joint Public Hearing (letter of May 25, 2004).
  - The EIR was also completed in 2004. At that time, the proposed Project Area No. 5 was approximately 300 acres. The current Project Area No. 5

includes 180 acres, a significant change in the scope of the project that is not reflected in the EIR presented.

- The Agency's findings of economic feasibility are similarly flawed, as the financial estimates presented were calculated using the base year value of the original Project Area No. 5, not the current project area.
- Because the Agency seeks to extend its power of eminent domain over property in Project No. 1, No. 2, and No. 3, it is subject to an *independent* requirement that the record show, for all three projects, that the area *remains blighted*.

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Attachment #2	Martin Zimmerman Letter, June 18, 2004
Attachment #3	Timeline of correspondence between County and City staffs
Attachment #4	Digital video declaration
Attachment #5	Photographs of Project Areas
Attachment A	DVD video of selected project areas

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## **The Agency Lacks Legal, Practical and Factual Authority to "Merge" Tax Increment Receipt Limits into an Increased Cap**

The Agency states that one of the "purposes" of the Redevelopment Plan for the Merged Glendora Redevelopment Project is to:

*Consolidate the limits on the amount of tax increment the Agency may collect from the Existing Project Areas, and increase that amount to \$425,000,000.<sup>1</sup>*

Currently, the total combined limit on the receipt of tax increment for Project Nos. 1, 2, and 3 is \$342,894,720. Most notably, however, the current lifetime limit on the receipt of tax increment for Project No. 3 is \$42.6 million and the Agency has received approximately \$34 million for Project No. 3 through 2004-05. The Agency is well aware that it is rapidly approaching the time when Project No. 3 tax diversion must end. The City of Glendora lacks the authority to "consolidate" statutorily required limits on the receipt of tax increment from pre-AB 1290 redevelopment plans. Additionally, the Report to Council fails to justify the increase in tax increment limitation or "cap" for any of the Existing Project Areas.

There is no authority in the Community Redevelopment Law which allows for the "consolidation" or mingling of tax increment limits from different plans. The merger of redevelopment plans does not obliterate their differences, including Base Year Values and statutorily imposed limits. All that the "merger" of existing redevelopment plans does is to allow tax increment generated from one geographic area to be spent in a different one without violating the statutory and constitutional requirement that tax increment be spent only for activities related to that particular geographic area. The Report to Council implicitly concedes this lack of authority by seeking to increase tax increment dollar limits on Existing Projects. Since the new Project No. 5 (if validly adopted) would have *no* dollar limitation, the skewed logic of cap "consolidation" merging the three Existing Projects with the new Project No. 5 would free all Existing Plans from cap limits.

Community Redevelopment Law requires that redevelopment plans adopted prior to January 1, 1994 include a stated limit on the amount of tax increment revenues those plans can receive. The "tax increment cap" for certain plans, adopted prior to October 1, 1976, are fixed and may not be amended. The tax increment cap for plans adopted between October 1, 1976 and before January 1, 1994, may be changed, by formal plan amendment, but only in compliance with Health & Safety Code § 33354.6(b). Section 33354.6(b) requires a showing of "significant remaining blight" and relating the additional tax dollars diverted from other taxing entities to elimination of that "significant remaining blight." A merger that "consolidates" tax increment limits is, in effect, an attempt to amend existing caps without going through the process specified in Section 33354.6.

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<sup>1</sup> Draft Redevelopment Plan for the Merged Glendora Redevelopment Project, June 2006, p. 2.

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Project No. 1 and Project No. 2

Glendora Redevelopment Project No. 2 was adopted prior to October 1, 1976. As such, there is no provision for amending its tax increment cap. See Health & Safety Code § 33333.4(a)(1). Glendora Redevelopment Project No. 1 was originally adopted in 1974, and was amended in July 1976, and again in November 1979. Unless (and only to the extent) the November 1979 amendment added territory to Project Area No. 1, the tax increment dollar limitation imposed on Project No. 1 is likewise fixed.

The Report to Council expressly disclaims an intent to amend the tax increment cap imposed on Project No. 1. On page 153 of the Report to Council, it is admitted that the existing cap for Project No. 1 is "very high" and that it is "very unlikely that the total tax receipts from Project No. 1 will ever reach such a high amount."

In consequence, it is apparent that the legally and practically flawed proposed "consolidation" is a mere device, as respects Project Nos. 1 and 2.

Project No. 3

Although the Report to Council tries to promote its theme of "consolidation" of tax increment dollar limits, and makes passing reference to "remaining blight" in both Projects No. 1 and 2, it is apparent that the Agency seeks to increase the tax increment cap for Project No. 3. The Report to Council, however, fails to demonstrate evidence sufficient to support the determinations required by Section 33354.6.

The Redevelopment Plan in raising a required limitation must comply with the requirements of Health & Safety Code section 33354.6 (b).

*(b) When an agency proposes to increase the limitation on the number of dollars to be allocated to the redevelopment agency, it shall describe and identify, in the report required by Section 33352, the remaining blight within the project area, identify the portion, if any, that is no longer blighted, the projects that are required to be completed to eradicate the remaining blight and the relationship between the costs of those projects and the amount of increase in the limitation on the number of dollars to be allocated to the agency. The ordinance adopting the amendment shall contain findings that both (1) significant blight remains with the project area and (2) the blight cannot be eliminated without the establishment of additional debt and the increase in the limitation on the number of dollars to be allocated to the redevelopment agency.*

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## **The Proposed Extension of Eminent Domain Independently Requires a Showing that the Affected Area Remains Blighted**

The US Supreme Court decision in *Kelo v. City of New London*, \_\_\_ U.S. \_\_\_, 162 L. Ed. 2d 439, 125 S. Ct 2655 (2005) held that New London's use of eminent domain for economic development satisfied the "public use" requirement of the Fifth Amendment's Takings Clause. *Kelo* held that the plaintiff's unblighted water-view property was lawfully condemned by a city for economic development.

After *Kelo* many have questioned whether condemning unblighted property and transferring it for private development – even to obtain broad community economic benefits – is an acceptable use of government powers. The Supreme Court noted in a footnote that "Under California law...a city may only take land for economic development purposes in *blighted areas*." (125 S. Ct at 2668, fn.23; italics added)

More recently, California courts have emphasized that under the CRL a redevelopment plan condemnation authority amendment must be based on a showing that the project area remains blighted. *Boelts v. City of Lake Forest*, (2005) 127 Cal. App. 4th 116 [adding authority by amendment]; *Blue v. City of Los Angeles* (2006) 137 Cal. App. 4th 1131 [reinstating lapsed authority]. Absent such proof that underlying blight conditions support the exercise of what is ultimately the municipal police power, there would be grave potential for its abuse. The lack of sufficient evidence of blight or "remaining blight" in any of the Project Areas calls into question the legitimacy of the attempt to extend eminent domain authority here.

## **Proposed Merger of Project Nos. 1, 2, and 3**

Even without any increases in tax increment caps, the Report to Council fails to demonstrate the "substantial benefit to the public" by the proposed merger of the Existing Projects, as well as their merger with a proposed new Project No. 5. As stated in Health & Safety Code § 33485, the Legislature intends that "project areas are terminated when the redevelopment of such areas has been completed" and that "increasing revenues which result from redevelopment accrue to the benefit of affected taxing jurisdictions at the completion of redevelopment activities in a project area." This intention is also reiterated by the various limits placed on redevelopment plans, including the limits placed by AB 1290. Although cities and redevelopment agencies are admittedly making investments in project areas, they make those investments mostly with tax revenues that belong to other "affected taxing jurisdictions."

With little significant blight remaining in the existing Project Areas, there is no apparent justification for the Agency to collect tax increment beyond the current

lifetime limits of the Projects. The County believes that the motivation for the merger and increase to the lifetime limits on the projects is to continue the flow of tax increment to the Agency to the maximum permissible period preventing their rightful return to affected taxing entities, not to eradicate "remaining" blight. According to Section 33485 regarding mergers:

*The Legislature finds and declares that the provisions of this part, which require that taxes allocated pursuant to Section 33670 be applied to the project area in which such taxes are generated, are designed to assure (1) that project areas are terminated when the redevelopment of such areas has been completed and (2) that the increased revenues which result from redevelopment accrue to the benefit of affected taxing jurisdictions at the completion of redevelopment activities in a project area. Although mergers may have the effect of extending the life of redevelopment project areas, such mergers are desirable as a matter of public policy if they result in substantial benefit to the public and if they contribute to the revitalization of blighted areas through the increased economic vitality of such areas and through increased and improved housing opportunities in or near such areas. The Legislature further finds and declares that it is necessary to enact a statute which sets out uniform statewide standards for merger of project areas to assure that such mergers serve a vital public purpose.*

The absence of any discussion of substantial benefit to the public, increased economic vitality, or increased and improved housing opportunities related to a merger of the existing Project Areas, makes it evident that the attempt to extend these tax receipt limitations is contrary to public policy. Project Area No. 1 continues to grow, and the Agency does not want to return excess tax increments to the taxing agencies. The County concludes that the purpose of the proposed merger is the collection of tax increment at the expense of the affected taxing jurisdictions, in violation of Section 33485.

Rather than show "significant remaining blight" in the Existing Project Areas, the Report to Council demonstrates that Glendora has made significant strides in redevelopment and that little actual blight remains. Further, each of the Existing Project Areas appears to have a more than sufficient tax increment flow within current projections to pay for such projects to alleviate blight as may truly exist in that area. None of the Existing Projects show a negative cash flow due to decreased assessments, for example, which might otherwise justify merger.

The Report to Council's discussion of proposed projects for Project No. 5 is far too generic, based only on "an illustrative program" of possible activities. Moreover, given the insufficient evidence of blight, it certainly does not indicate the existence of a serious current problem (or proposed activity) that needs immediate remediation. The Report to Council purports to provide sufficient

evidence to justify a finding of the project's "economic feasibility," thus negating the inference that a merger of this new redevelopment project with an existing project is necessary and provides a "substantial benefit to the public."

The only real expenses put forward in the Report to Council amount to a wish list for public improvements. The City's desire to access other entities' resources, in the form of tax increment revenues, to pay for public improvements is understandable, but not justifiable. So-called "inadequate public improvements" may not be considered as a blighting condition justifying the adoption or amendment of redevelopment plans, ever since 1994 and AB 1290.

### ***Statutory Requirements of Blight***

According to California Community Redevelopment Law, the Agency is required to present substantial evidence of blight to justify the use of redevelopment. Health and Safety Code Section 33030 characterizes a blighted area as follows:

*An area that is predominantly urbanized, as that term is defined in Section 33320.1, and is an area in which the combination of conditions set forth in Section 33031 is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.*

Section 33031 (a) describes physical conditions that cause blight as:

*(1) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions can be caused by serious building code violations, dilapidation and deterioration, defective design or physical construction, faulty or inadequate utilities, or other similar factors.*

*(2) Factors that prevent or substantially hinder the economically viable use or capacity of buildings or lots. This condition can be caused by a substandard design, inadequate size given present standards and market conditions, lack of parking, or other similar factors.*

*(3) Adjacent or nearby uses that are incompatible with each other and which prevent the economic development of those parcels or other portions of the project area.*

*(4) The existence of subdivided lots of irregular form and shape and inadequate size for proper usefulness and development that are in multiple ownership.*

Section 33031(b) describes economic conditions that cause blight as:

*(1) Depreciated or stagnant property values or impaired investments, including, but not necessarily limited to, those properties containing hazardous wastes that require the use of agency authority as specified in Article 12.5 (commencing with Section 33459)*

*(2) Abnormally high business vacancies, abnormally low lease rates, high turnover rates, abandoned buildings, or excessive vacant lots within an area developed for urban use and served by utilities.*

*(3) A lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions.*

*(4) Residential overcrowding or an excess of bars, liquor stores, or other businesses that cater exclusively to adults, that has led to problems of public safety and welfare.*

*(5) A high crime rate that constitutes a serious threat to the public safety and welfare.*

### **There Is an Inadequate Showing of Remaining Blight in the Existing Project Areas**

The Agency's description of remaining blight in the Report to Council begins on page 105. The Agency makes the claim that the appropriate definition of blight to use is that which was in force at the time of project adoption, in this case 1976. The County disagrees with this interpretation of CRL, and asserts that the current definition of blight must be used. The Agency's presentation of blight in the current project areas cites portions of both the 1976 and current definitions. This makes it unclear as to which definition the Agency is relying on.

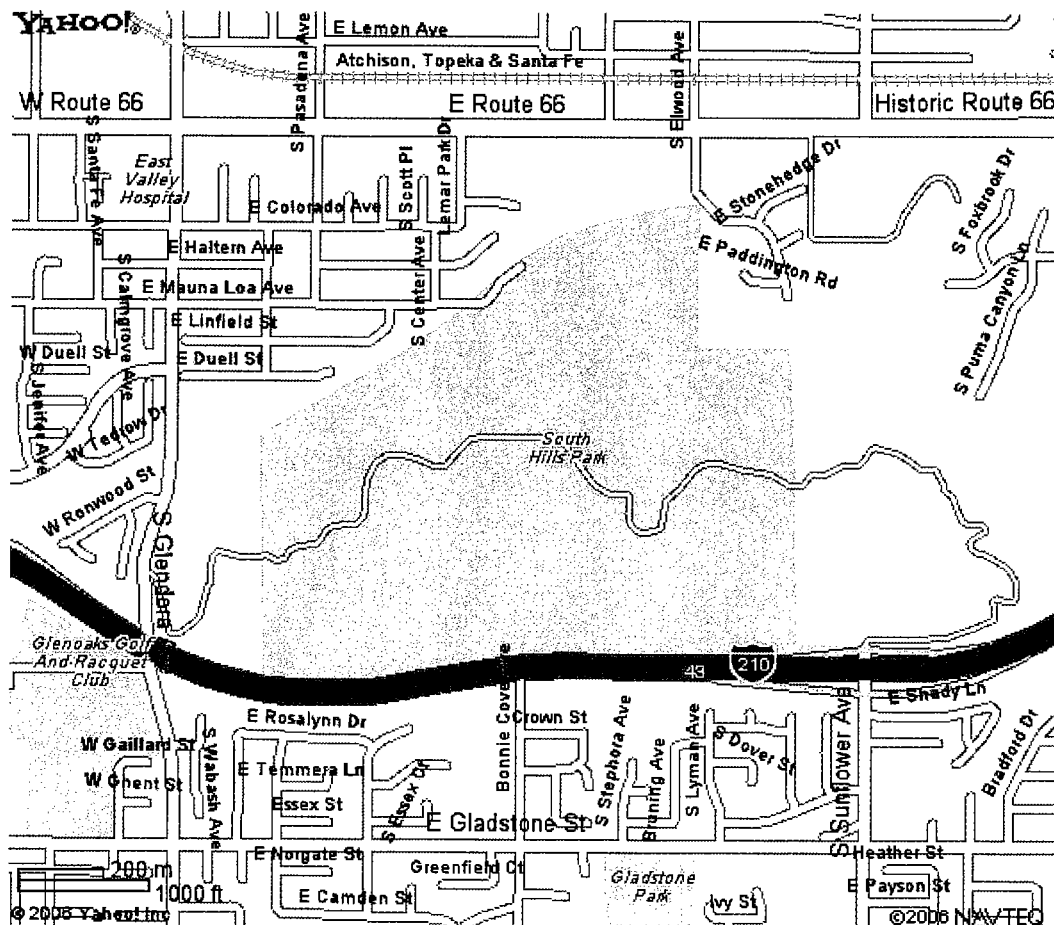
#### **Project Area No. 1**

The Agency concedes that large portions of Project Area No. 1 have been fully redeveloped. The city has established an auto mall and a number of large big box retail outlets in the southeast portion of the project area (see pages 8 and 9 of Attachment #5). In fact, another large retail project is currently being

constructed in this area. The Agency presents photographic evidence of a shopping center in the southwest portion of the project area and areas of empty hillsides as examples of remaining blight in pages 110-12 of the Report to Council.

The County disagrees that a few vacancies in a single shopping center and vacant hillside parcels can be characterized as significant remaining blight using the current definitions. Further, according to Figure 22 on page 146 of the Report to Council, a majority of the "Areas of Remaining Blight" in Project Area No. 1 appear to be the hillside parcels north of the Foothill Freeway. This area is the location of the City's South Hills Park, a 200-acre park that includes hiking and equestrian trails, and a developed park area with restrooms and playground apparatus. The Agency suggests that this area is blighted because its terrain hinders its economically viable use. Does the City intend to change the use of these parcels from a City-owned park to something else?

The following map depicts South Hills Park, which can be compared to the "Areas of Remaining Blight" on Figure 22.





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## Project Area No. 2

The Agency's findings of blight for Project Area No. 2 are woefully inadequate and are limited to a few short paragraphs on page 112 of the Report to Council:

*Certain buildings have asbestos-containing materials and/or lead-based paint, and were constructed with unreinforced masonry. These conditions satisfy two categories of blight in 1976 (33031 [a] and 33032 [a]) and one in 2004 (33031 [a] [1]). There are also infrastructure improvements needed in this Project Area, which satisfy one category of blight in 1976 (33032 [d]) and one in 2004 (33031 [a] [2]).<sup>2</sup>*

In addition to the incorrect assumptions about asbestos and lead paint discussed in greater detail below, the referencing in the Report of only "Certain buildings" and unidentified "infrastructure improvements needed" fails to provide the substantial evidence necessary to determine if the existing conditions meet the current definition of significant remaining blight. The County's photographic evidence (see pages 10 and 11 of Attachment #5) depict a bustling but quaint "main street," and modern shopping centers.

## Project Area No. 3

The Agency's more detailed discussion of 'remaining blight' in Project Area No. 3 consists of general descriptions of such things as "peeling paint," "antiquated signage," and "lack of landscaping." Consistent with other sections of the reports, the Agency has not provided evidence of physical and economic blight that is a *burden on the community*. There is no analysis of actual existing conditions, only conjecture based upon assumptions and statistical averages. Specifically:

- **Unsafe Buildings.** The Agency relies on the possible existence of asbestos and lead based paint as evidence of unsafe buildings. No direct evidence is presented that any specific building either has been found to contain either asbestos or lead based paint, or that the actual existence of these substances has created a health and safety issue. Further, the EPA advises that most asbestos and lead-based paint should not be remediated unless it is exposed. Assuming buildings in Project Area No. 3 actually contain asbestos and lead-based paint, and further assuming that the conditions of such material are such as to constitute a safety hazard (although there is no data to support such an assertion), the Agency admits that it is **not** proposing a remediation program. Thus, the required connection between the claimed need for increased tax increment and how the Agency intends to use it to eliminate the "remaining blight" is missing.

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<sup>2</sup> Report to City Council for Project Area No. 5 Adoption, Merger, and Amendment, May 12, 2006, p. 112.

- **Incompatible Land Uses.** The Agency provides several examples of residential, commercial, and industrial uses located adjacent to each other. However, no evidence is provided that demonstrates how these adjacencies prevent the economic development of these parcels. Nor is there any specific evidence (such as a record of complaints) provided to demonstrate that these adjacencies cause any health and safety issues. Instead, the Agency relies on a generic statement, "This mix creates serious problems because of conflicting traffic patterns, noise impacts, odors, or other nuisances that tend to have attendant health and safety concerns."<sup>3</sup>
- **Deterioration.** The Agency cites examples of deterioration: "roof damage, cracked stucco, wood rot, and peeling paint." The results of a field survey (which are not provided) apparently indicated that 37% of the buildings are "in some degree of disrepair." This over-broad, undefined condition violates *Friends of Mammoth*, as a determination cannot be made whether a sufficient number of structures were affected by serious conditions that threaten the safety of the occupants.

Further, the Agency assumes that even minor repairs may be beyond the means of many property owners in the area. No evidence is provided to support this claim. The Agency then theorizes that "A poorly maintained commercial building will not only give a negative impression to a potential shopper, it can also act as a deterrent to investors in the area." This type of speculative claim of blight based upon the possibility of future decline, and comparisons to optimal uses have been rejected by the courts.

- **Irregular parcels.** According to Section 33031 (a) (4): "The existence of subdivided lots of irregular form and shape and inadequate size for proper usefulness and development that are in multiple ownership." The Agency provides several examples of irregular shaped and small parcel sizes. However, it does not offer how these conditions are negatively impacting the usefulness of the present use, other than they have poor curb appeal. Also, it appears that the Agency wishes to use redevelopment in order to transform certain parcels to their highest and best use, in violation of *Sweetwater*.

The Agency's description of the parcels on the northeast corner of Route 66 and Glendora Avenue is a good example. "Common planning practices would suggest this corner should be occupied by an attractive shopping area. Instead, it includes an odd mix of uses (an animal hospital, two auto repair shops, a used-car lot, and an RV repair shop)."

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<sup>3</sup> Report to City Council for Project Area No. 5 Adoption, Merger, and Amendment, May 12, 2006, p. 115.

There is no discussion about any current problems that may be associated with these existing uses, only an expressed desire by the City to see new use there. And further in this section, the Agency states what it plans to do with such unsightly parcels: "Parcel consolidation is critical to the future strength of the Project Area and would only be possible if the proposed amendment is approved."

- Inadequate infrastructure. The existence of inadequate infrastructure is by itself no longer a blighting condition according to current CRL. Even if it were, the Agency does not discuss why these improvements cannot be funded by private or government sources, and how these infrastructure improvements would alleviate the blight. For example, there is no explanation given as to how a \$10 million parking garage or \$8 million for Gold Line grade separations would alleviate blight in Project Area No. 3.

The Agency does not provide a single example of the private sector's failure to invest due to inadequate infrastructure. On the contrary, a tour of the project areas reveals numerous examples of the private sector's willingness to build new projects. Further, the Agency fails to explain why the examples of inadequate infrastructure (curb and gutter construction, sidewalk construction, and street reconstruction) cannot be funded from City road maintenance funds or even from anticipated tax increment revenues under the existing limit.

### **Agency Blight Identification in the Proposed Project Area No. 5**

The County's repeated requests to understand the basis of the Agency's claim of blight have eventuated in its receipt of the Report to Council, which promotes a drastically altered project, approximately 3 weeks before adoption. This directly prejudiced the County's due process rights.

One of the Agency's primary approaches to the identification of "blighting conditions" is the concept that if a defined class of properties generates less tax revenues than certain others, they are "blighted." Examples of this rationale can be found throughout the Report to Council (see Table 4 at page 31, [properties built 1978 or earlier] Table 5 at page 36, ["needs repairs" versus "structurally sound"] Table 6 at page 41, [properties with open storage] Table 7 at page 47, [so-called "obsolete" properties] and Table 8 at page 56 [incompatible uses]). The Agency's rationale is essentially: if the proposed project area is "redeveloped" with new businesses, additional tax revenues will be generated.

The rationale is fundamentally flawed as a matter of description and public policy. First, under California's Proposition 13 property tax assessment system, there is no close relationship between assessed value and market value. Two very similar properties, one recently purchased and one long owned by the same party, and both perfectly sound, may be assessed at very different values.

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Second, ignoring this objection and assuming that assessed valuation reflects an inherent value, this rationale for determining blight violates the *Sweetwater* case. To show blight "it is not sufficient to merely show that the area is not being put to its optimum use" but the Agency must show that the existing conditions constitute "a real hindrance to the development of the city."<sup>4</sup>

A tour of the proposed Project Area No. 5 demonstrates that the proposed area includes a number of recently developed shopping centers and other properties that appear to be in excellent condition. Given the existence of these properties, some of which were recently constructed, and apparently prospering, the Agency needs to more fully document its claim that blighting conditions prevail in the project area:

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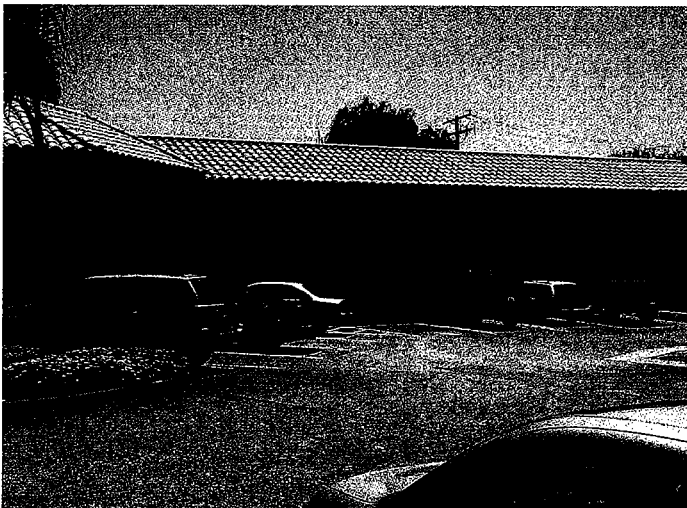
<sup>4</sup> *Sweetwater Valley Civic Assn. v. City of National City* (1976) 18 Cal. 3d 270, 278, quoting *Redevelopment Agency v. Hayes*, 122 Cal App.2d, 777 at 793.



LA Fitness, 820 S. Grand. The Agency indicates the property is blighted in Figure 5 (Unsafe or Unhealthy Buildings), Figure 9 (Depreciated or Stagnant Property Values), Figure 11 (Areas of substantial increases in crime), and Figure 14 (Properties with economic blight).



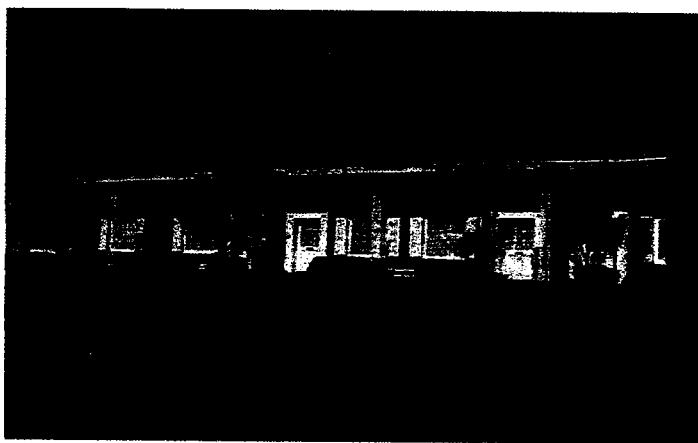
Sav-on Drugs, 526 W. Foothill Blvd. The Agency indicates the property is blighted in Figure 5 (Unsafe or Unhealthy Buildings), Figure 9 (Depreciated or Stagnant Property Values), Figure 11 (Areas of increased crime), and Figure 14 (Properties with economic blight).



Shopping center, E. Route 66, south of Lone Hill Ave. The Agency indicates the property is blighted in Figure 6 (Properties with factors that prevent viable uses), Figure 7 (Properties with incompatible uses), Figure 9 (Depreciated or Stagnant Property Values), Figure 11 (Areas of substantial increases in crime), and Figure 14 (Properties with economic blight).

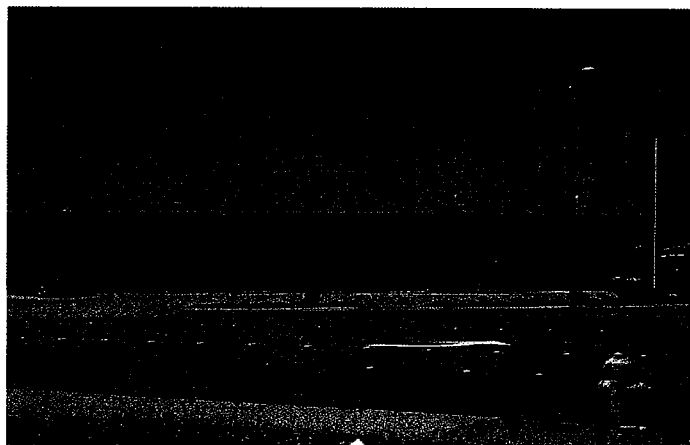
In its review of the Agency reports, the County uncovered numerous instances where the photographic evidence presented by the Agency is misleading. The photographs on the following pages demonstrate examples of actual conditions that do not match the evidence presented by the Agency. The Agency admits in its Introduction on page 1 of the Report to Council that its photographic evidence is at least two years old. In reviewing the Agency's findings, we can only look to the current status of the project area (June, 2006).

### ***Agency Report to Council***



Damage to exterior surfaces

### ***Actual observed conditions***



Exterior surfaces in good condition

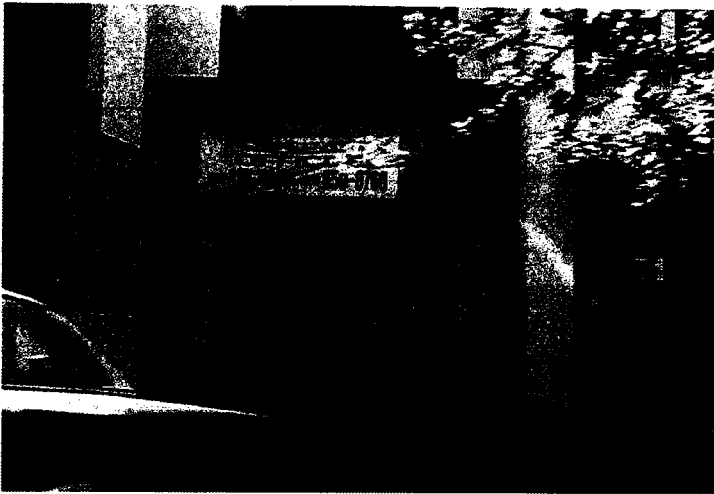


Vacant anchor store in shopping center



Anchor store in place

***Agency Report to Council***



Vacant commercial unit

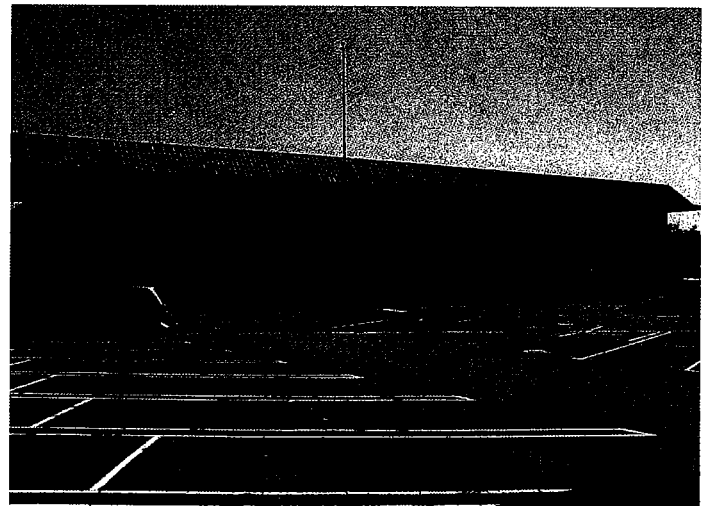
***Actual observed conditions***



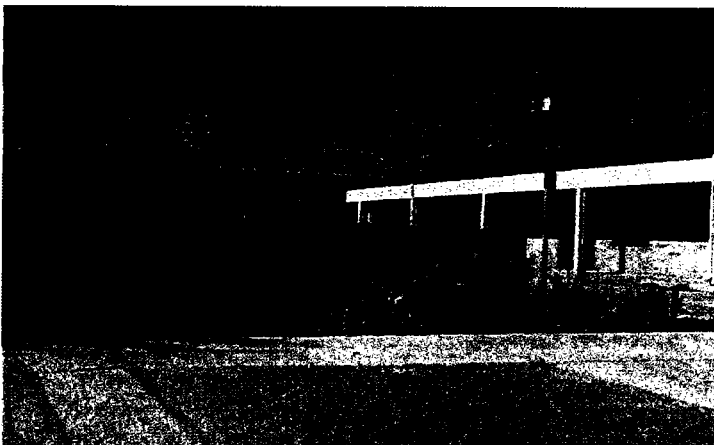
Unit does not appear vacant



Vacant anchor store in shopping center



Anchor store partially occupied

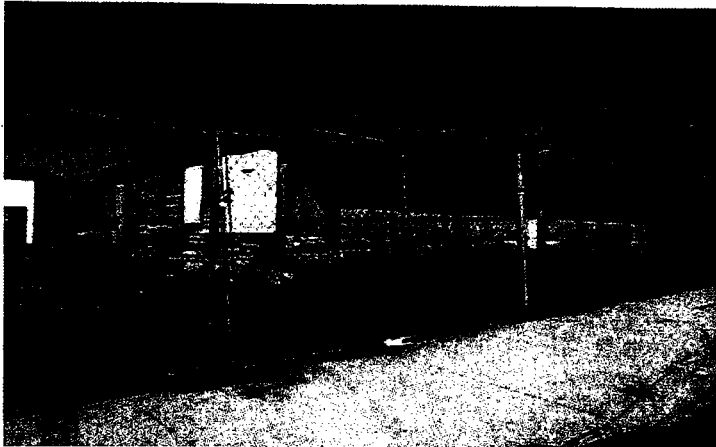


Vacant commercial units



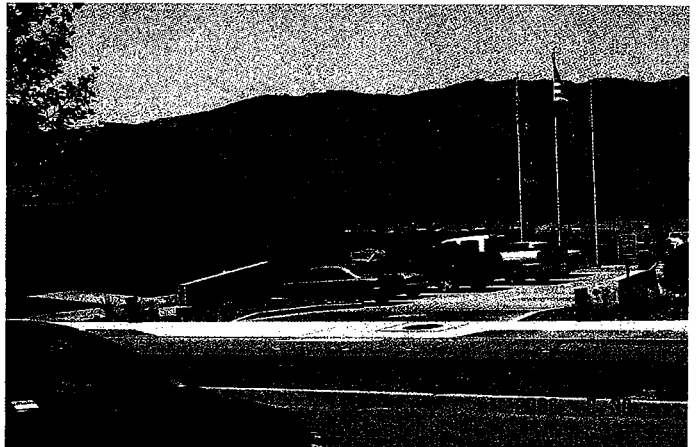
Commercial units occupied

***Agency Report to Council***

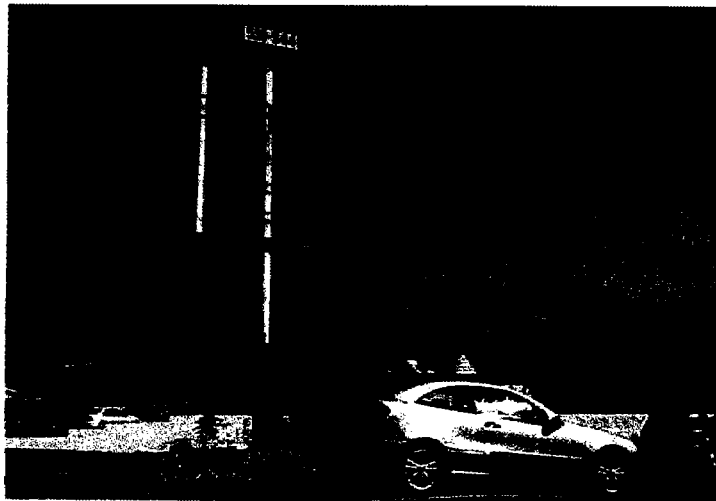


Deterioration

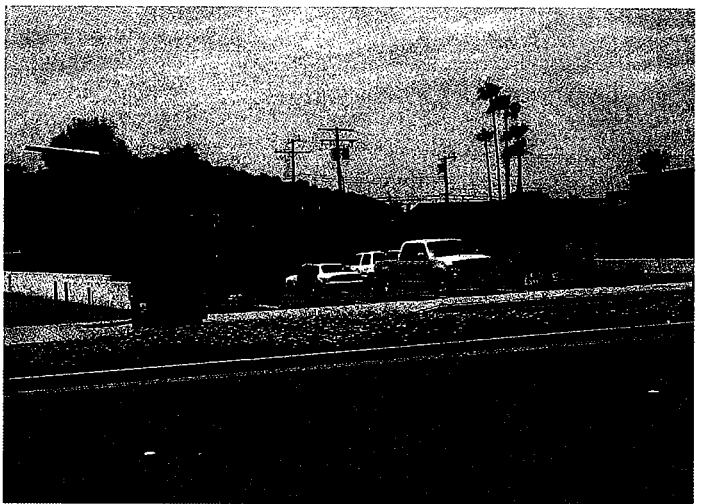
***Actual observed conditions***



Structure demolished, new restaurant



Vacant commercial unit



Damaged sign removed, no apparent vacancies



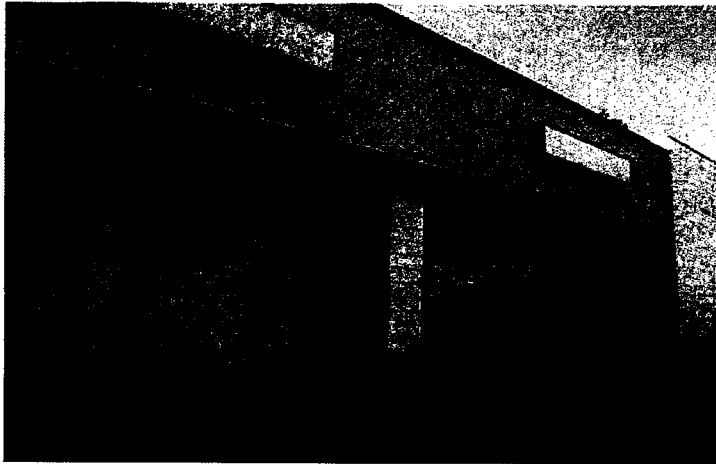
Vacant commercial unit



Unit not vacant

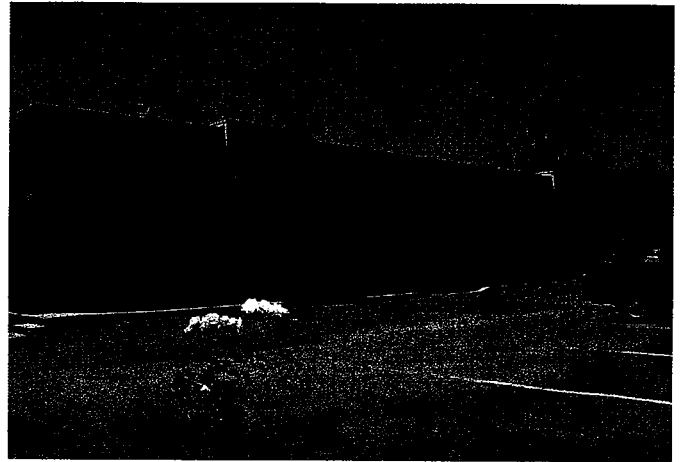


***Agency Report to Council***



Vacant commercial units

***Actual observed conditions***



Not all units vacant



Vacant commercial structure



Site of new Starbucks



Vacant commercial structure



Site of new County facility

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1. Unsafe or Unhealthy Buildings

*(1) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions can be caused by serious building code violations, dilapidation and deterioration, defective design or physical construction, faulty or inadequate utilities, or other similar factors.*

The Agency concludes that because some buildings in the project area are relatively old, they are "likely" to have deficiencies that make them unsafe. Few specific examples are illustrated, and there is no discussion of actual building conditions and how those conditions make it unsafe for persons to live or work in these buildings. It is telling that the Agency does not claim it will undertake any remedial efforts to cure this alleged blight, and actually states that it "will not require the removal" of these allegedly hazardous materials as a concerted program.

Much of the alleged showing of physical blight is highly conclusory.

- **Seismic Issues.** The average home in one of the residential neighborhoods of Project No. 5 was built in 1941, and does not meet modern, Uniform Building Code seismic standards. Therefore, the Agency concludes that these buildings are unsafe. The Preliminary Report even cited a prediction of a major earthquake by September 5, 2004. However, no evidence is presented as to the likelihood of older buildings being more unsafe than modern buildings in a hypothetical major earthquake, or what specific steps could be taken to make them safer. Those buildings have evidently survived all post-1941 seismic events.
- **Electrical Systems.** Because of the older construction date, the Building Department estimates that 60-70% of the structures in the residential area of Project No. 5 do not conform to current electrical standards, and concludes they are at risk. City Hall is cited as an example of having poor wiring, but no evidence is provided that other buildings have similar problems, or the evidence underlying the Building Department's 60-70% estimate.
- **Deterioration.** The Agency admits on page 29 of the Report to Council that "While there are many buildings with deterioration, only one appears to be to the degree where it may be considered unhealthy or life-threatening."
- **Hazardous Materials.** The Agency claims there are approximately 49 (unidentified) properties in Project Area No. 5 that contain hazardous materials. Without presenting specific instances, there is no way to determine if and how the alleged hazardous materials present a danger to

the community. "Due to the age of structures and the building types, the likelihood of hazardous material contamination in excess of State and Federal standards in the proposed Project Area is high."<sup>5</sup> Which State and Federal standards, what kind of hazardous materials, and is there any evidence of their existence in the Project Area?

The Agency makes the assumption that because the Project Area includes older buildings, lead-based paint and asbestos are likely to be present based on national averages. No data is provided that indicates buildings in the Project Area exhibit either of these conditions, or to what extent. Contrary to the opinion of the Agency regarding the extreme costs in removing hazardous materials, the United States Environmental Protection Agency advises that, "Lead-based paint that is in good condition is usually not a hazard."<sup>6</sup>

Similar advice is also given in the handling of asbestos. Absent damage or disturbance to the asbestos building component, rehabilitative work is not compelled. Therefore, without evidence establishing the conditions present in the buildings, it is not possible to know whether there is a presence of lead-based paint or asbestos, whether they are in a hazardous condition, and what, if anything should be done to remediate them.

The Agency next makes the claim that properties with a high risk of hazardous materials have a significant impact on property values. The Agency claims that the assessed values of properties built before 1978 are 43% less than those built after 1978. No evidence is provided which would show that the possibility of hazardous materials causes lower property values. It is more likely that property values of older homes are related to a lack of turnover and Prop 13 assessment requirements than the unsubstantiated presence of hazardous materials.

Finally, the map on page 32 of the Report to Council is conclusory, as no specific information is given other than a particular parcel has been labeled as "properties with unsafe or unhealthy conditions." The only verifiable condition these properties possess is that on average, they were constructed before 1978.

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<sup>5</sup> Report to City Council for Project Area No. 5 Adoption, Merger, and Amendment, May 12, 2006, p. 29.

<sup>6</sup> "Protect Your Family From Lead in Your Home," United States Environmental Protection Agency, EPA 747-k-94-001, May 1995, p. 7.

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2. Factors that prevent the viable use of buildings

*(2) Factors that prevent or substantially hinder the economically viable use or capacity of buildings or lots. This condition can be caused by a substandard design, inadequate size given present standards and market conditions, lack of parking, or other similar factors.*

The discussion in the reports of “factors that prevent or substantially hinder the economically viable use of buildings or lots” is similarly incomplete and conclusory. Review of the text and accompanying photographs indicates that the Agency considers “minimal design elements” and “lack of landscaping” to qualify as blighting factors. There is absolutely no documentation to indicate that any of the properties suffering such blighting factors are not “economically viable.” Instead, there is a comparison of what the assessed value of such properties *might be* if new development took its place. Again, this violates the principle of the *Sweetwater* decision.

- Deterioration. The Agency’s Report to Council states that field surveys were conducted and each property was evaluated. Supposedly, every building was placed into one of three categories: Structurally Sound; Needs Renovation; and Dilapidated. Unfortunately, no data from this survey process was provided. Rather, the results of the field survey are summarized as “26% of the buildings in the proposed Project Area are in some degree of disrepair.” Conditions observed in those buildings included peeling paint and dry rot.

Redevelopment in California comments on such generalized findings of physical blight in describing the *Friends of Mammoth, et al. v. Town of Mammoth Lakes Redevelopment Agency*:

*The evidence supporting physical blight was inadequate because the methodology used by the town to document building conditions was flawed. Specifically, the definition of terms such as “deterioration” and “dilapidation” were over-broad, including conditions such as the presence of peeling paint and dry rot, making it impossible to determine whether a sufficient number of structures were affected by conditions that were sufficiently serious that they resulted in buildings that were unsafe or unhealthy for human occupancy.<sup>7</sup>*

The photographs provided in this section of the Report to Council provide limited examples of damage to exterior walls, worn roofs, cracked stucco, and peeling paint. While some of the above conditions may be visually

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<sup>7</sup> Redevelopment in California, David F. Beatty et al., 2004 (Third Edition), p. 36.

unappealing, the Agency fails to show how they represent the kind of serious dilapidation that is a public health threat to the community. Also, the Agency's desire to improve conditions does not necessarily equate to blighted conditions. According to *Beach-Courchese v. City of Diamond Bar*<sup>8</sup> "Thus, the concededly desirable goal of improving an area is "insufficient by itself to justify use of the extraordinary powers of community redevelopment."

- **Code Violations.** The Agency refers to a higher frequency of code violations in the Project Area, especially in two specific locations. There is no showing that these conditions (signage, damaged sidewalks, illegally parked vehicles, weeds and trash, and other unspecified "building violations") in any specific instance substantially hindered, much less prevented, the economically viable use or capacity of any buildings or lots in the Project Area. And no specific program is offered in the Plan to address these conditions.
- **Open Storage.** According to the Report to Council, about 5% of commercial and industrial properties have inoperable vehicles, junk, or other materials openly stored in front of the property. In other words, 6 properties out of 113 commercial and industrial parcels (297 total parcels in the project area) have issues with open storage.

In Table 6, page 41 of the Report to Council, the Agency states that properties with open storage are 76% lower in value than properties with no open storage. Again, the causal relationship between open storage and property values is not explained. Further, the Agency suggests that if the open storage issues were corrected (although this is not included in the list of planned projects), that property values would increase by \$650,000. How the removal of junk from 6 properties could trigger a \$650,000 reassessment is not explained.

- **Commercial Obsolescence.** On page 41 of the Report to Council, "Most of the proposed Project Area is made up of older, smaller stores that are not well-maintained, have no relation to each other, and possess few positive design elements." And, "Over 11% of all commercial buildings in Project Area No. 5 suffer from significant obsolescence." The Agency's approach to obsolescence is based on the concept that properties that generate less tax revenues than possible are "blighted."

Apparently, the small, unrelated, mom-and-pop stores currently occupying the commercial centers are somehow limiting the economic viability of the area, and through the powers of redevelopment, will be replaced by better uses that will increase property valuation. The Agency has failed to

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<sup>8</sup> *Beach-Courchese v. City of Diamond Bar* (2000) 80 Cal. App 4<sup>th</sup>, 388, 395

adequately demonstrate physical blight and how it is impacting the current uses, and the Agency's claim that the area is not being put to its optimum use is a violation of *Sweetwater*.

- Age. "Building age is a significant factor in obsolescence, deterioration, and other factors that hinder proper usefulness in Project Area No. 5."<sup>9</sup> The Agency states that the median age of buildings in proposed Project Area No. 5 is 57 years. This includes 87 buildings over 75 years old. The County disagrees with the generalization that older structures generally contain building systems that have reached their life expectancies and are in need of major rehabilitation. On the contrary, there are numerous examples of aged buildings that, because of superior design and workmanship, proper maintenance, and mild southern California climate, are in excellent condition.

Life expectancies of household systems and components are given on page 49 of the Preliminary Report. The data is from the U.S. Department of Housing and Urban Development Residential Rehabilitation Inspection Guide (2000). However, the Guide includes a cautionary paragraph (not mentioned in the Preliminary Report) regarding the use of the data:

*The following material was developed for the National Association of Home Builders (NAHB) Economics Department based on a survey of manufacturers, trade associations, and product researchers. Many factors affect the life expectancy of housing components and need to be considered when making replacement decisions, including the quality of the components, the quality of their installation, their level of maintenance, weather and climatic conditions, and intensity of their use. Some components remain functional but become obsolete because of changing styles and tastes or because of product improvements. Note that the following life expectancy estimates are provided largely by the industries or manufacturers that make and sell the components listed.*<sup>10</sup>

- Inadequate Public Improvements. The Agency claims that the absence of adequate infrastructure makes the cost of new development projects in the Project Area much higher than other areas, and makes new projects not economically viable. No specific examples of this phenomenon are given. Furthermore, the proposed cost to provide "adequate" infrastructure is \$4 million. No details are provided as to how new development projects will become economically viable after the investment in infrastructure. The County submits that the City and Agency

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<sup>9</sup> Report to City Council for Project Area No. 5 Adoption, Merger, and Amendment, May 12, 2006, p. 46.

<sup>10</sup> Residential Rehabilitation Inspection Guide, U.S. Department of Housing and Urban Development, 1993, Appendix C.

are attempting to use “inadequate public improvements” as a blighting factor, when such a condition was eliminated from factors which could be used to justify adoption of a redevelopment plan pursuant to AB 1290.

According to CRL, assuming a validly established redevelopment project area, an agency may undertake public infrastructure projects, provided that, among other things, the legislative body determines “That no other reasonable means of financing the buildings, facilities, structures, or other improvements, are available to the community.”<sup>11</sup> There is nothing in the Agency Reports to indicate that the claimed inadequate improvements are not merely suffering from normal wear and tear and why the City is not capable of funding this maintenance. The reports do not include any such determination. Finally, the County disagrees with the notion that the “need” to underground utility wires constitutes “blight” and thus warrants the extraordinary powers of redevelopment.

3. *Incompatible Uses*

*(3) Adjacent or nearby uses that are incompatible with each other and which prevent the economic development of those parcels or other portions of the project area.*

The Agency identifies 13 parcels (out of 297 total parcels) affected by the conditions of incompatibility. There is no explanation of what constitutes an “incompatible use” and why the specific instances may cause a problem. The reports indicate that it considers residential use next to neighborhood commercial uses to be “incompatible.” On the contrary, residents in those neighborhoods might find it convenient to live close to neighborhood stores, and the stores are likely to benefit from the repeat business of the local residents. In fact, many new “mixed use” urban developments seek to place residents and businesses in close proximity.

A tour of the area indicates that these residential uses appear to be free from any problems related to the nearby commercial uses. There is little or no discussion or specific examples cited as to how the proximity of uses causes significant problems for one or the other. In fact, comparison of the map of Existing Uses with the City’s General Plan indicates that the only real lack of conformity stems from the fact that the City apparently wants to convert the four blocks along either side of Glendora Avenue, south of Foothill, from a mix of residential, commercial and public uses to solely public. The same type of conversion is apparently sought for the two commercial blocks near Glendora Avenue, south of Bennet.

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<sup>11</sup> California Health and Safety Code, Section 33445 (a) (2).

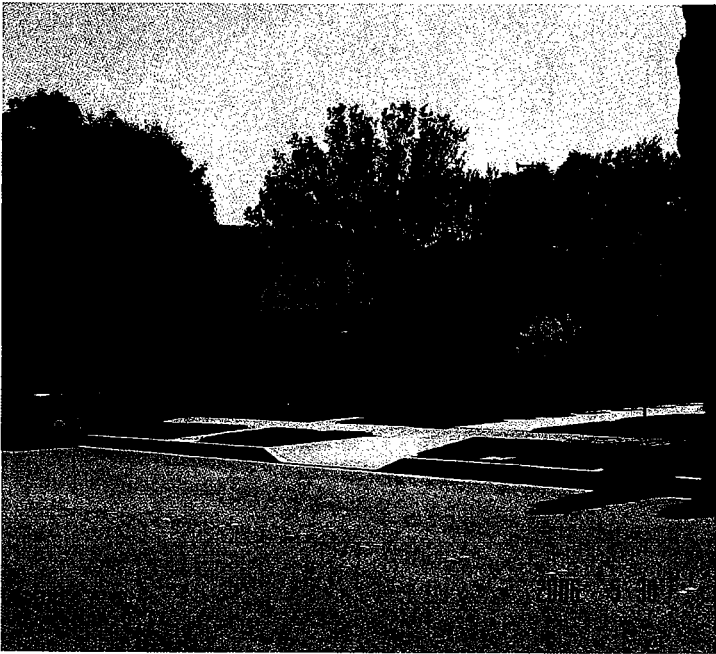
4. *Irregular Parcels in Multiple Ownership*

*(4) The existence of subdivided lots of irregular form and shape and inadequate size for proper usefulness and development that are in multiple ownership.*

The Agency is misinterpreting Section 33031(a)(4) in its analysis of parcels claimed to be of inadequate size and shape for proper usefulness. The bulk of the parcels claimed to be of "inadequate size" for proper usefulness are homes that are in use and in seemingly good repair.

The fact that these residences may be legally non-conforming because changes in the City's General Plan encourages larger homes does not mean that they are not being "properly used", much less blighted as can be seen in the photographs on the following page. The proposed Plan specifically disclaims the use of eminent domain against residential property, making it obvious that the lot size of small-lot neighborhoods in the Plan will not be increased by Plan activities, and thus the County concludes that their inclusion is for the sole purpose of collecting tax increment.





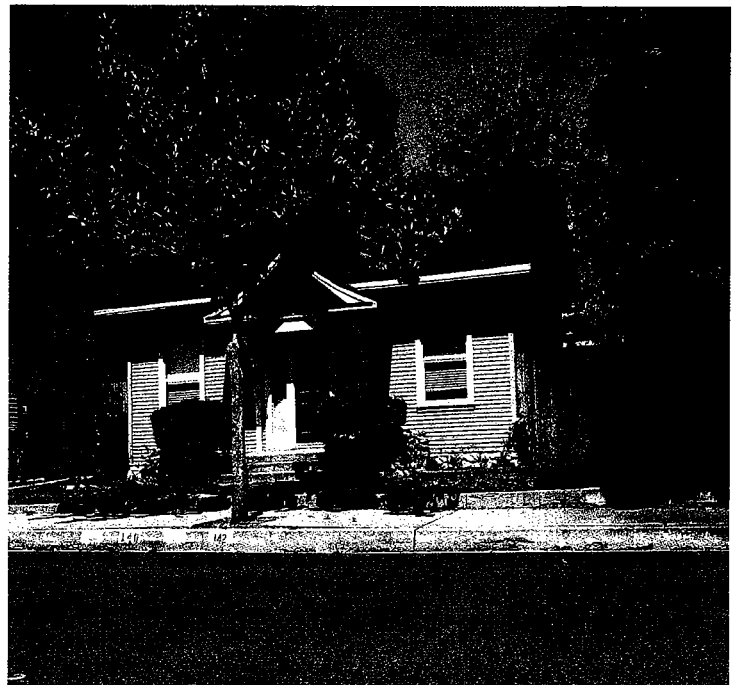
Vista Domita Ave. between Ada and Carroll Ave.



Vermont Ave between Ada and Carroll Ave.



Pennsylvania Ave. between Foothill and Carroll Ave.



Vermont Ave. between Foothill and Carroll Ave.

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5. *Depreciated Values or Impaired Investments*

*(1) Depreciated or stagnant property values or impaired investments, including, but not necessarily limited to, those properties containing hazardous wastes that require the use of agency authority as specified in Article 12.5 (commencing with Section 33459).*

The County disputes the Agency's characterization of "depreciated or stagnant." The County considers that the term 'depreciated' means a decrease in value over time, and 'stagnant' reflects a condition of little or no increase in value. However, the Agency notes that the property sales values of single family residences in Project No. 5 have increased 29.5% from 1994 to 2003. This is then compared to an increase of 58% elsewhere in the City. Apparently, the comparison between an increase of 29.5% and 58% is thought to support the Agency's conclusion that values in the Project Area are "depressed." The County submits that an increase of 29.5% over a nine-year period does not remotely qualify as "depreciated or stagnant."

The Agency also attempts to use declines in sales tax revenues in Project Area No. 5 as evidence of economic blight. One cannot tell from the evidence presented whether the differences highlighted in the Report to Council are from comparable areas. Also, there is no attempt to account for the opening of major additional retail areas within the city.

6. *Vacancies, Abandoned Buildings, and Low Lease Rates*

*(2) Abnormally high business vacancies, abnormally low lease rates, high turnover rates, abandoned buildings, or excessive vacant lots within an area developed for urban use and served by utilities.*

The Agency reports are also conclusory in their claim of blight based upon commercial vacancies. The Report to Council states that there are 14 vacant commercial units in Project Area No. 5. Tellingly, the Report does not state the total number of commercial units available, so there is no way to determine the vacancy rate, much less to support a claim of an "abnormally high vacancy rate" as required by the statute. Further, no specific use of redevelopment to eradicate the alleged blighting condition is proposed, only the general and uncertain statement, "Successful implementation of the redevelopment program will address the vacancies by providing incentives to attract new businesses, or facilitating parcel assembly, which could create properties that are viable in today's market."

Photographic evidence is presented for eight of the 14 units. As stated earlier in this report, because the Agency's photographs are outdated they do not represent current conditions. This report provides evidence that vacancies do not currently exist as the Agency suggests in Photos 33, 34, 35, 36, and 38 (beginning on page 73 of the Report to Council). The remainder of the discussion in this section of the Report to Council is one of abstract theory, rather than an examination of existing conditions. For example, the County questions the relevance of a 1982 article which studied a dilapidated section of inner-city slums in Newark, New Jersey, and recommended increased police foot patrols to reduce crime.

7. Crime Rates

*(5) A high crime rate that constitutes a serious threat to the public safety and welfare.*

According to Figure 11 of the Report to Council, all of the sub-areas of the proposed Project Area are claimed to suffer from "increased crime" and/or "substantial increase in crime." Yet the only basis for this bare conclusion is the characterization of unnamed officials of the City's police department that "there has been a steady increase" in crime. No numbers are provided to allow the reader to draw his/her own conclusion. The only statistic provided is a statement that the crime rate has increased "by 156%" or "by 200%," but there is no baseline of information to indicate whether this claimed "steady increase" means that one burglary per year has increased to two burglaries.

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## Project Feasibility

Section 33352 (e) requires the Report to Council to contain: "The proposed method of financing the redevelopment of the project area in sufficient detail so that the legislative body may determine the economic feasibility of the plan." A description of the estimated project revenues for Project Area No. 5 is found on page 173 of the Report to Council. It indicates that a 3% average annual growth was used to compute estimated tax increment. However, it appears that Table 22 on page 174 used a 4.5% growth rate for annual growth.

Regardless of what growth rate was used, the Agency's analysis includes a fatal flaw which makes the financial feasibility of Project No. 5 impossible to determine. The base year value used in Table 22 is \$250,385,000. The Agency did request an updated 2005 year number from the County's Auditor Controller's Office. However, it is based on the original **300-acre** Project Area, not the revised **180-acre** project area. Therefore, the projected tax increment numbers presented by the Agency are not valid for the proposed Project Area, making financial feasibility impossible to determine.

Surprisingly, the Agency admits this omission:

*Both Auditor-Controller reports employed to prepare Table 24 used the boundaries for Project Area No. 5 as they were proposed at the time the 2003-04 Base Year report was prepared. Since then, the Glendora Planning Commission has recommended to the City Council that certain territory be removed. If the City Council concurs with the Planning Commission in the regard, then the assessed valuation numbers shown for the 2005-06 Base Year in Table 24 will be too high."<sup>12</sup>*

That this crucial financial projection "will be too high" would undermine any financial feasibility finding.

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<sup>12</sup> Report to City Council for Project Area No. 5 Adoption, Merger, and Amendment, May 12, 2006, p. 240.

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## **The Miars Report**

Recognizing the importance of proving significant remaining blight in Project Area No. 3, the Agency provides supplemental findings in Appendix B of the Report to Council. The information provided in the complete Miars Report is large in quantity, but lacks substantive content. The County believes a careful review of the supplemental Report proves the County's contention that Project Area No. 3 includes a few run down properties, but on the whole, does not meet the threshold of physical and economic blight required by CRL.

The County objects to the use of the legislatively superseded 1976 definition of blight. More importantly, the findings in this supplemental report suggest minor code violations such as missing antisiphon valves, and evidence of non-tempered glass and chain link fences. No evidence is presented that these various conditions have rendered any of the properties in Project Area No. 3 unfit for occupancy, have had negative economic impact on the current use of the property, or why code enforcement is infeasible.

As an example, the Agency points to the existence of a helicopter landing pad in a hospital parking lot, and estimates it would cost the hospital \$1.2 million to bring the heliport into compliance. The Agency apparently concludes that the mere existence of this situation establishes blight. The County believes that the CRL requires more: what code violations has the hospital been cited for; why haven't the code violations been solved; how often is the heliport actually used; have there been any injuries reported; and what is the economic impact of this condition on the hospital.

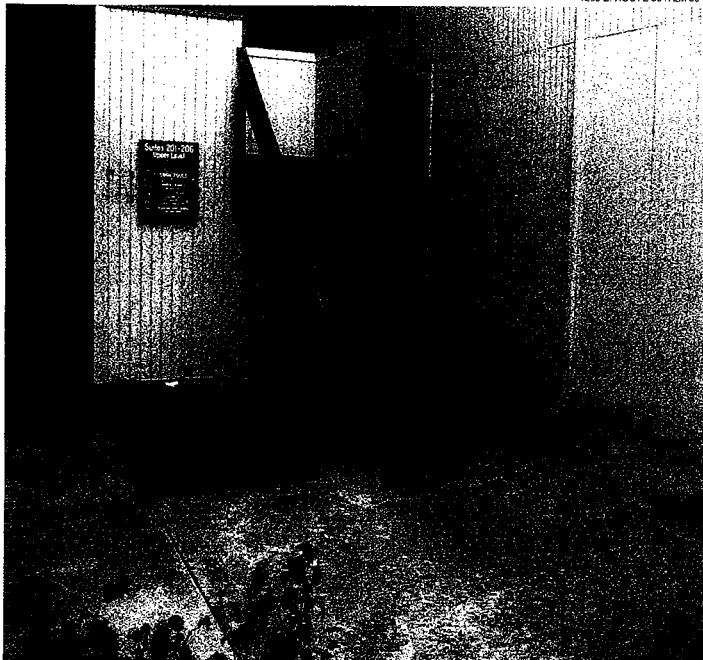
The following images from the Miars Report illustrate the types of minor issues that the County does not believe qualify as blighting factors according to current CRL.

602 W. ROUTE 66 ITEM 60



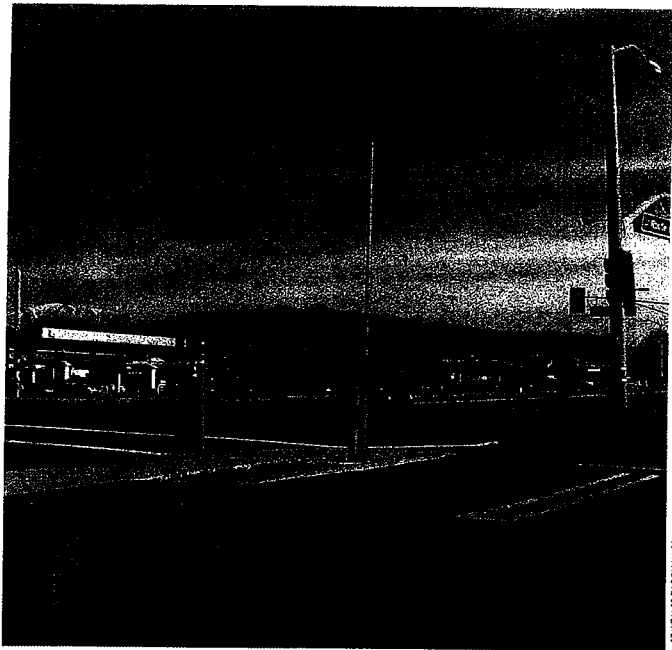
Need center hand rail at south steps

1200 E. ROUTE 66 ITEM 60



Stair railings open more than 4"

100 W. ROUTE 66 ITEM 20



Install overhead utilities under ground



ADA detectable strip missing at grade changes

## **Crime Data**

Supplemental crime data for Project Area No. 3 is provided by the Agency on a disk entitled "Glendora Police Data, Appendix 6." The disk includes a single spreadsheet that lists police calls in the area from 1999 to 2004. It includes over 18,000 entries. Unfortunately, the nature of the calls is given by a code number. For example, the first call was for a "902T." The reader cannot determine what a 902T is. Also, there are no subtotals provided, and no summary of the data. Therefore, it is not possible to conclude that there are any trends, or to determine how the area compares to similar areas in the City. In short, whether the data reflects a high project area rate of the types of crimes that constitute a serious threat to the public safety and welfare is indeterminable.

## **Environmental Impact Report**

The City includes its Environmental Impact Report (EIR) at Appendix D of the Report to Council. As with the other contents of the Report, the EIR is based on data collected from 2004. On page 3 of the EIR, the Agency describes a nonexistent compromise reached with the County of Los Angeles resulting in changes to the proposed Redevelopment Plan. No such compromise was ever achieved.

On page 44 of the EIR, the Agency describes potential developments to three sites that could exacerbate already high levels of traffic along Grand Avenue, however, the Agency states that as of 2004 they were unaware of any development plans for those sites. One of those sites, the former Home Base site was redeveloped and now is a County of Los Angeles Department of Children and Family Services facility. This 100,000 square foot facility includes approximately 490 parking spaces, and the Department reports 305 staff members work at this facility.

Surely the addition of over 300 staff members traveling to and from this facility on a daily basis has had an impact on the traffic on Grand Avenue. Unfortunately, the EIR does not include this significant change to traffic patterns along Grand Avenue. This exemplifies why the Agency should have used current data, and not relied on data from 2004, in presenting the Report to Council.

Attachment #1



DAVID E. JANSSEN  
Chief Administrative Officer

County of Los Angeles  
**CHIEF ADMINISTRATIVE OFFICE**

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012  
(213) 874-1101  
<http://cao.co.la.ca.us>

VIA FACSIMILE AND U.S. MAIL

May 25, 2004

Eric Ziegler, City Manager  
City of Glendora  
116 East Foothill Boulevard  
Glendora, CA 91747-3380

Dear Mr. Ziegler:

**CONSULTATION ON PROPOSED REDEVELOPMENT PROJECT NO. 5**

This letter is to confirm the consultation your redevelopment consultant, Ernie Glover, had with staff from this office, Robert Moran and Jerry Ramirez, on May 20, 2004. I understand Mr. Moran communicated this Office's concern, as was communicated to your staff in a meeting on February 26, 2004, that the proposed project does not meet the statutory blight requirements. In addition, it was expressed to Mr. Glover that my staff requested additional information be provided that was not included in the Preliminary Report:

1. A parcel list for Project No. 5 in electronic format;
2. Maps and addresses for the photographs included in the Preliminary Report;
3. Tax increment projections for Project Nos. 1, 2, and 3;
4. Dollar amounts for public improvement projects completed to date for Project Nos. 1, 2, and 3, and a proposed scope for proposed projects for Project No. 5;
5. Additional backup data for the sales information included in Table 12 of the Preliminary Report; and
6. Information specific to the proposed merger (as required by Section 33354.6 of Community Redevelopment Law) including a listing of remaining blight, areas no longer blighted, projects proposed to eradicate the remaining blight, and the relationship between the costs of those projects and the proposed increase in project caps.

It is our understanding that additional information will be included in the Report to Council. In order for us to adequately review the information, my staff requested of Mr. Glover that this Office receive a copy of the Report to Council 30 days before the Joint Public Hearing. Mr. Glover stated that we may receive the Report two or three weeks prior to the Hearing, but we believe the 30 day request is reasonable, because a detailed review of the Report to Council is a critical part of our review.

ora\glendora\consultation

*"To Enrich Lives Through Effective And Caring Service"*

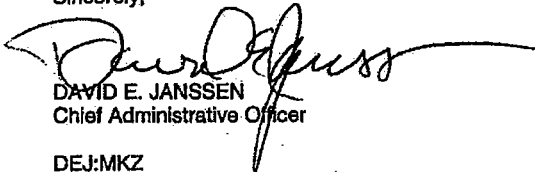
Board of Supervisors  
GLORIA MOLINA  
First District  
  
YVONNE BRATHWAITE BURKE  
Second District  
  
ZEV YAROSLAVSKY  
Third District  
  
DON KNABE  
Fourth District  
  
MICHAEL D. ANTONOVICH  
Fifth District



Eric Ziegler  
May 25, 2004  
Page 2

My staff is available to meet and discuss these proposals, and I hope that a meeting can be scheduled well in advance of the Joint Public Hearing, scheduled for June 29, 2004, in order to allow my staff adequate time to review your proposal, attempt to resolve any issues with your staff, and advise our Board of Supervisors. Thank you in advance for your timely response; please have your staff contact Robert Moran of this office at (213) 974-1130 to schedule a meeting as soon as possible.

Sincerely,



DAVID E. JANSSEN  
Chief Administrative Officer

DEJ:MKZ  
RM:nl

c: Supervisor Michael D. Antonovich, Fifth District  
Raymond G. Fortner, Chief Deputy County Counsel  
J. Tyler McCauley, Auditor-Controller

cra\glendora\consultation

June, 2006

Attachment #2



DAVID E. JANSSEN  
Chief Administrative Officer

County of Los Angeles  
**CHIEF ADMINISTRATIVE OFFICE**

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012  
(213) 974-1101  
<http://cao.co.la.ca.us>

**VIA FACSIMILE AND U.S. MAIL**

June 18, 2004

Al Lavin, Redevelopment Coordinator  
City of Glendora  
116 East Foothill Boulevard  
Glendora, CA 91741

Dear Mr. Lavin:

**PROPOSED REDEVELOPMENT PROJECT NO. 5 REPORT TO COUNCIL**

In our telephone consultation on May 20, 2004 with Ernie Glover, your consultant, we asked that you provide a copy of the Report to Council 30 days before the hearing. As Mr. Janssen stated in his letter of May 25, 2004, review of the Report to Council is a critical part of our review. Mr. Glover stated that he expected the Report could be provided, if not 30 days prior, by two or three weeks before the hearing. There are now only 10 calendar days (six working days) before the hearing and we have still not received the Report.

Please let me know as soon as the Report is available so that we may send a messenger for copies. Thank you in advance for your timely response; please call me at (213) 974-1326 if you wish to discuss this matter further.

Sincerely,

DAVID E. JANSSEN  
Chief Administrative Officer

A handwritten signature in black ink, appearing to read "M. Zimmerman", written over a horizontal line.

MARTIN K. ZIMMERMAN  
Acting Branch Manager  
Office of Unincorporated Area Services and Special Projects

DEJ:MKZ:os

c:\glendora\glendora\_proposed\proj no. 5\proj council\al lavin

*"To Enrich Lives Through Effective And Caring Service"*

Board of Supervisors  
GLORIA MOLINA  
First District

YVONNE B. BURKE  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

**Attachment #3**

**Glendora Timeline of correspondence**

April 1, 2003	City called CAO staff advising of their intent to amend an existing project area and requested if County could provide feedback per recently adopted Board Policy.
April 9, 2003	CAO staff met with City staff to discuss their redevelopment plans. City conducted a brief tour of proposed added area. County staff committed to going back to take a closer look before we providing any feedback.
May 1, 2003	Informed 5 <sup>th</sup> District staff that CAO staff believed that most areas of the proposed project area do not appear to exhibit conditions of blight consistent with redevelopment law. Advised that it would be best to share the concerns via oral communications since there was no formal proposal to respond to.
May 8, 2003	County staff met with City staff and shared concerns that proposed project did not appear to meet blighting requirements consistent with the law.
Dec 23, 2003	CAO staff sent memo to Board of Supervisors informing them that Glendora is proceeding with new redevelopment project.
Jan 15, 2004	CAO staff sent an e-mail to 5 <sup>th</sup> District staff informing them that CAO and County Counsel conducted a tour of project area and once again did not see any evidence of blight consistent with the law.
Feb 26, 2004	CAO staff met with City staff and reiterated concerns that proposed project did not appear to meet blighting requirements.
May 11, 2004	County received Preliminary Report, including notice that the City intended to adopt the project at its Joint Public Hearing on June 29, 2004.
May 18, 2004	CAO sent memo to Board summarizing the Agency's blight findings in the Preliminary Report and stating CAO's concerns that the proposed project does not meet statutory blight requirements.
May 20, 2004	Agency consultant discussed the project with CAO staff via a telephone consultation. CAO staff requested additional information and shared concerns regarding lack of blight. Consultant suggested a meeting with City, CAO staff agreed, recommended it take place ASAP.
May 25, 2004	CAO sent letter to City confirming telephone consultation, requested additional information, and informed the City that staff did not believe proposed project meets statutory blight requirements.

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May 28, 2004	City sent official notification that it planned to adopt the proposed project at a Joint Public Hearing on June 29, 2004.
June 18, 2004	CAO sent letter to City informing them that the Report to Council had not been received as promised.
June 24, 2004	CAO and 5 <sup>th</sup> District staff met with City staff. City expressed their desire to increase the cap on Project Area No. 3. CAO staff expressed doubts as to remaining blight in the proposed project. City agreed to continue the June 29 <sup>th</sup> Joint Public Hearing, and meet again with County staff on July 7 <sup>th</sup> to further discuss remaining blight.
June 29, 2004	City continued the Joint Public Hearing to July 27, 2004.
July 7, 2004	County staff met with City staff. City staff expressed a difference of opinion with County's interpretation of redevelopment law. City does not believe that they are required to show remaining blight using current AB 1290 standards. City consultant provided map indicating parcels exhibiting remaining blight as defined by pre-AB 1290 standards.
July 20, 2004	CAO staff spoke with City staff, who stated he would provide an agenda for the July 27 <sup>th</sup> Council meeting on Thursday and would talk later that week regarding a tour of Project No. 3.
July 27, 2004	City continued the Joint Public Hearing to August 24, 2004.
August 13, 2004	City staff sent e-mail to CAO staff, stating they had received the supplemental blight information from their consultant on August 11 <sup>th</sup> , and would be reviewing the information with City staff. Once review was complete, they would be able to meet with the County.
August 20, 2004	CAO staff sent e-mail to City staff, requesting copy of August 24 <sup>th</sup> City Council agenda indicating continuance. Also indicated desire on the part of the County to meet as soon as possible to discuss the additional blight findings.
August 23, 2004	County sent letter to City Mayor, acknowledging the City's intent of continuing the Joint Public Hearing, and stating that the County would continue to work on resolving the differences of opinion with the City prior to the Joint Public Hearing.
August 24, 2004	City continued the Joint Public Hearing to September 28, 2004.
September 28, 2004	City continued the Joint Public Hearing to October 26, 2004.

September 30, 2004	City and County staff met at the offices of the 5 <sup>th</sup> Supervisorial District. Continued to disagree on the application of Community Redevelopment Law. Specifically, the County does not believe that project caps can be merged, or that blighting standards that were permissible under pre-AB1290 law (lack of landscaping, etc) can be used to establish blight in order to increase a project cap.
October 26, 2004	City continued the Joint Public Hearing to November 23, 2004.
November 23, 2004	City continued the Joint Public Hearing to February 22, 2005.
February 22, 2005	City tabled the item.
December 13, 2005	City Mayor and staff member met with County staff, including the 5 <sup>th</sup> District Supervisor. The City presented new findings of blight prepared in-house. The Supervisor inquired as to why many of the problems illustrated cannot be solved by code enforcement.
January 23, 2006	County CAO sent a letter requesting a follow-up meeting to discuss the revised findings of blight.
January 26, 2006	The City's consultant requested a revised base year calculation.
March 14, 2006	CAO staff took a tour of the project area with City staff. City staff shared a map of a revised project area and indicated the City planned to adopt the project in June.
April 3, 2006	County sent a letter to the City Manager expressing its legal concerns, and also the fact that a mid-June adoption would not provide the minimum review period required by law.
May 12, 2006	The City sent a letter noticing the scheduling of the Joint Public Hearing for adoption of the project on June 13, 2006.
May 17, 2006	County Counsel sent a letter to the City's consultant confirming a verbal request to review a copy of the Report to Council.
May 18, 2006	The City Manager sent a response to the County's April 3 <sup>rd</sup> letter, stating the City's intent to adopt the project, and offering to speak to the CAO.
May 23, 2006	County CAO received copies of Report to Council via messenger.
June 7, 2003	County CAO sent letter to City Manager expressing regret that the City decided to proceed without attempting to further meet to resolve the County's legal concerns.

**Attachment #4**

**Declaration of ROBERT MORAN**

I, Robert Moran, declare:

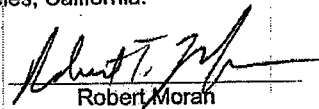
1. I am an employee of the Los Angeles County Chief Administrative Office. I make this declaration of my own personal knowledge and if called as a witness could competently testify to the facts stated in it, except as to those stated on information and belief, and as to them I believe them to be true.

2. The digital video enclosed with these Objections as Attachment A was recorded and prepared under my immediate direction and control. The video was recorded June 2, 2006. I personally inserted into the recording, based upon personal knowledge and contemporaneous notes, the subtitles that identify the various areas and locations then being depicted.

3. The video data is in 3 parts and depicts generally (1) Project Area No. 3 from the adjoining streets as captioned; (2) Project Area No. 5 as captioned; (3) portions of Project Area No. 1 as captioned.

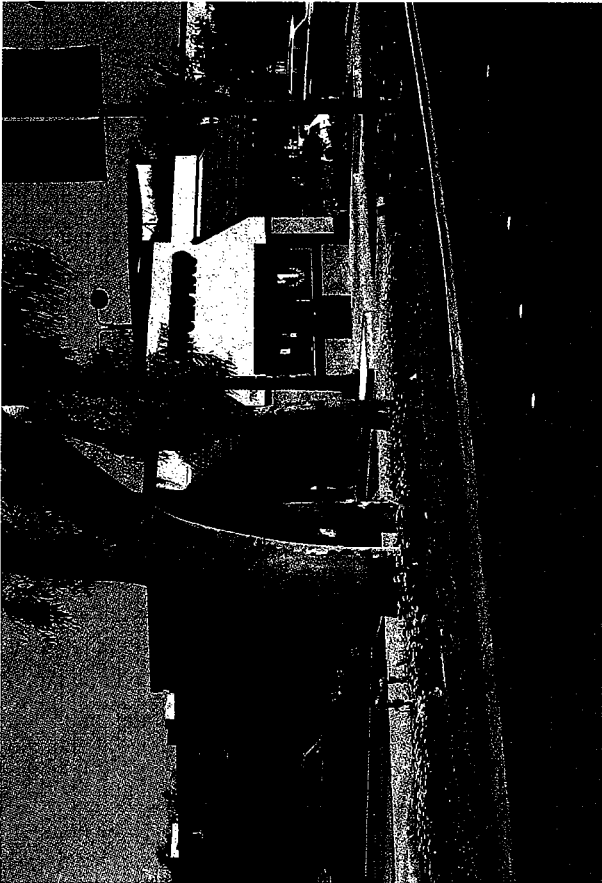
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 12, 2006, at Los Angeles, California.

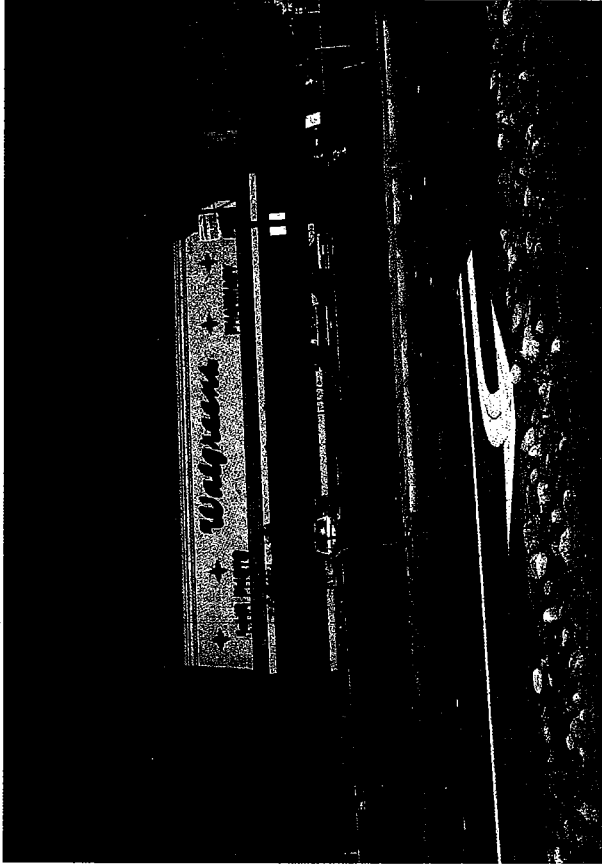
  
Robert Moran

# Glendora Redevelopment Project

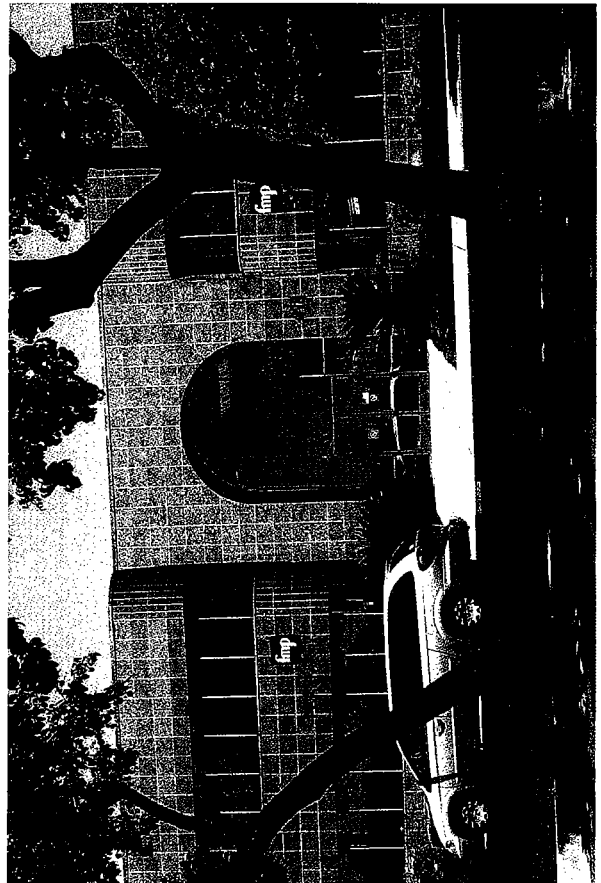
## Project Area No. 3



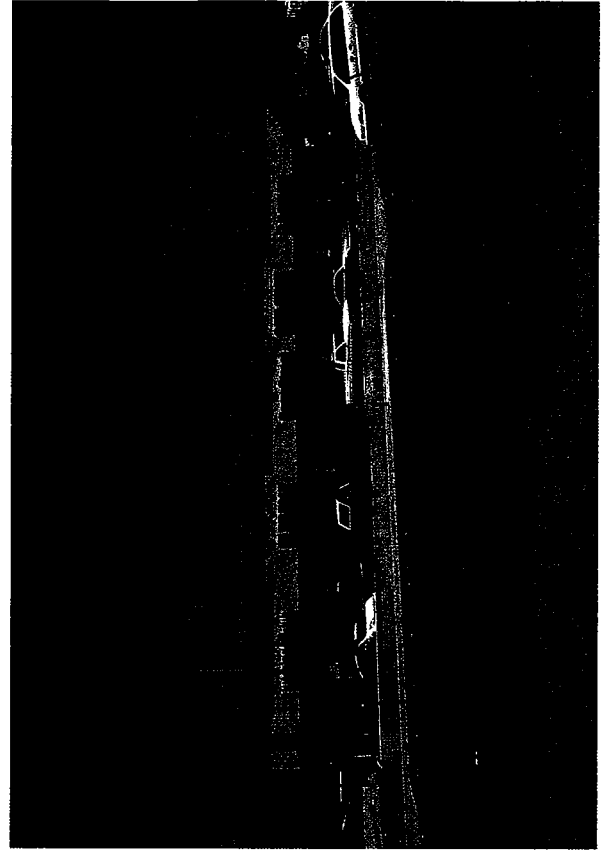
Grand Avenue, north of Mauna Loa Avenue



Northeast corner of Grand Avenue and Route 66



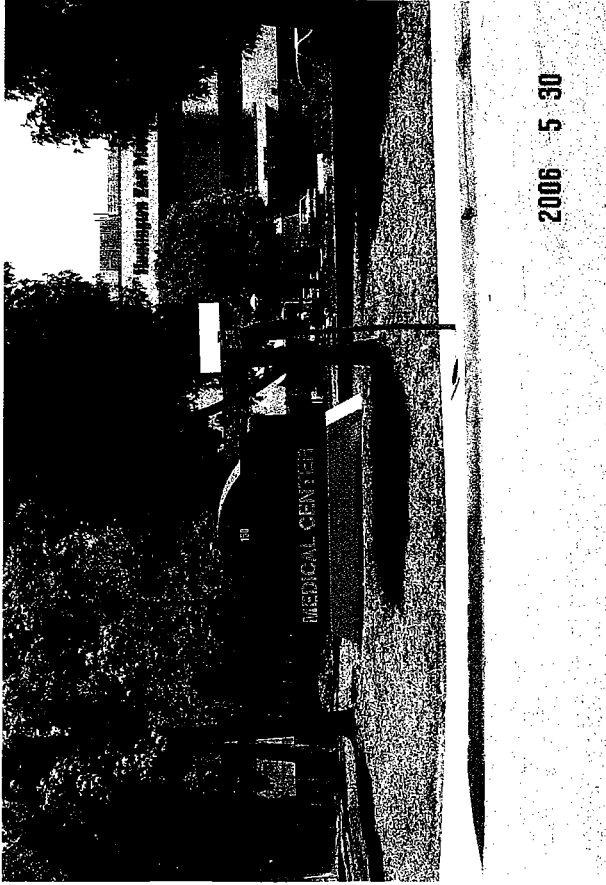
Route 66, between Grand Avenue and Vermont Avenue



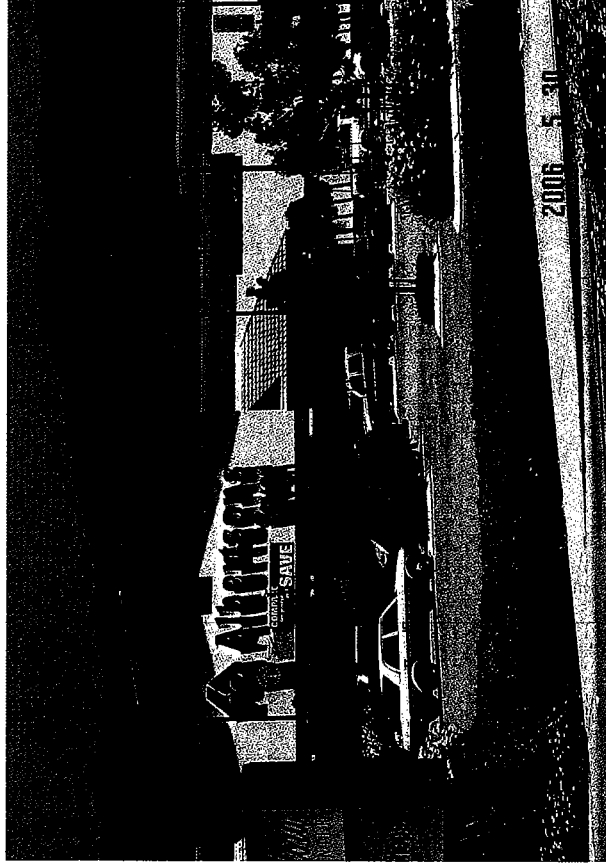
Route 66, between Vermont Avenue and Glendora Avenue

# Glendora Redevelopment Project

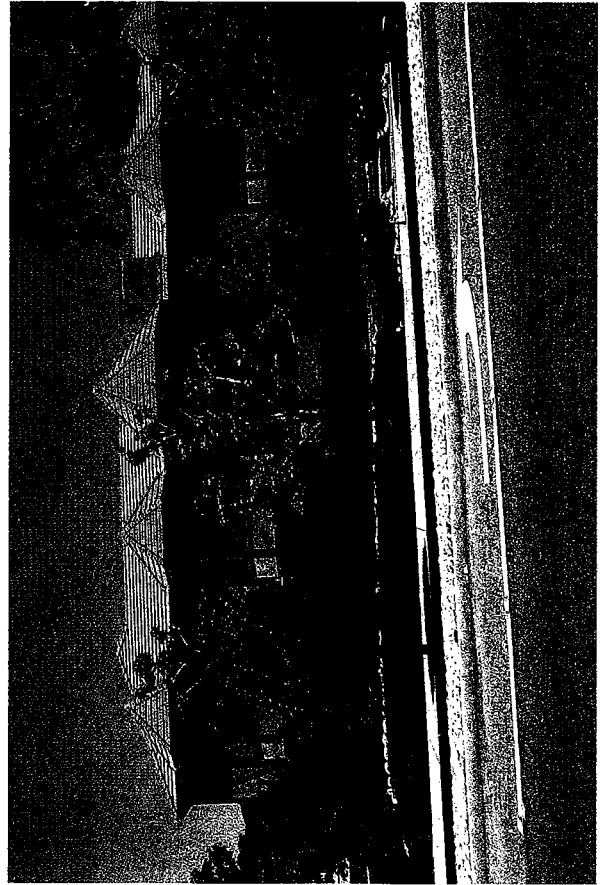
## Project Area No. 3



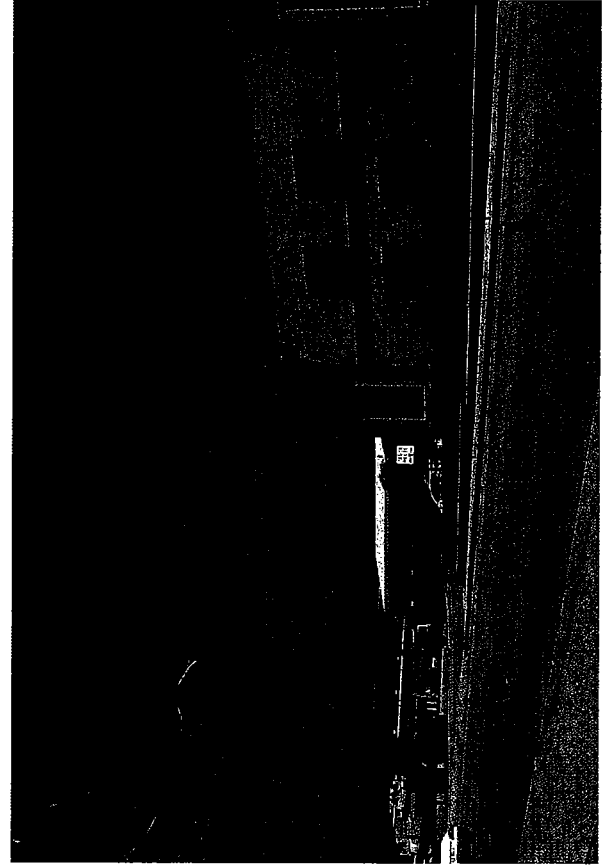
Route 66 at Vermont Avenue



Route 66 at Vermont Avenue



Route 66, between Glendora Avenue and Pasadena Avenue

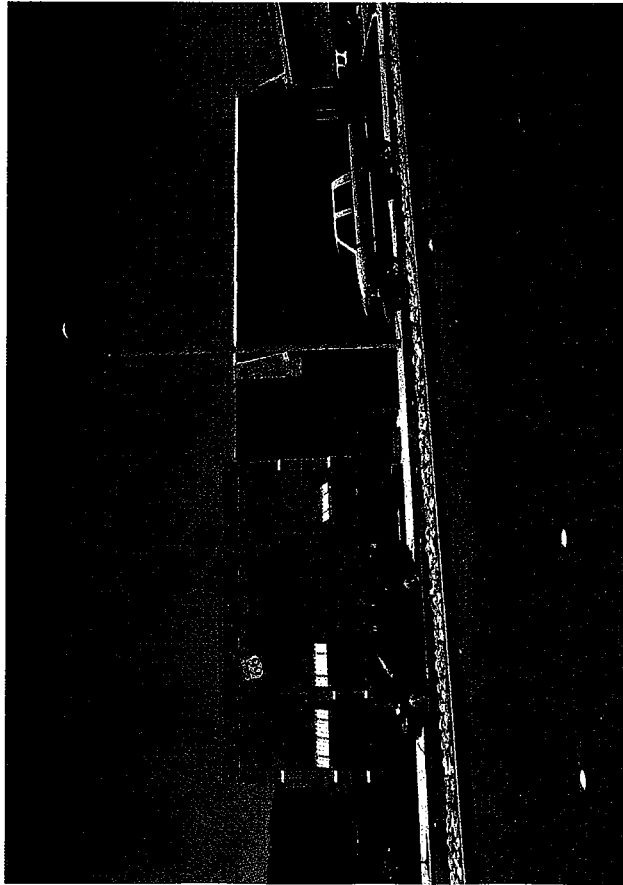


Glendora Avenue, south of Route 66

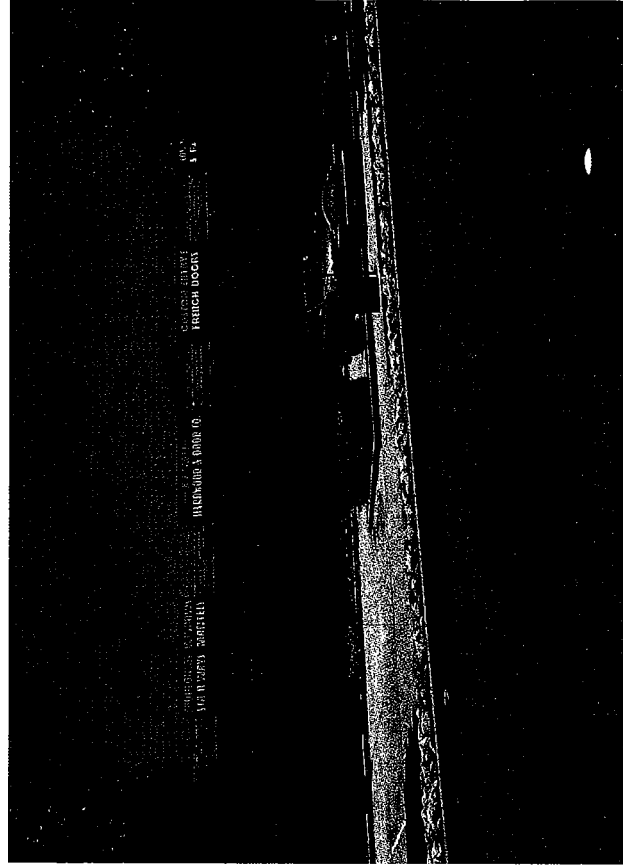


# Glendora Redevelopment Project

## Project Area No. 3



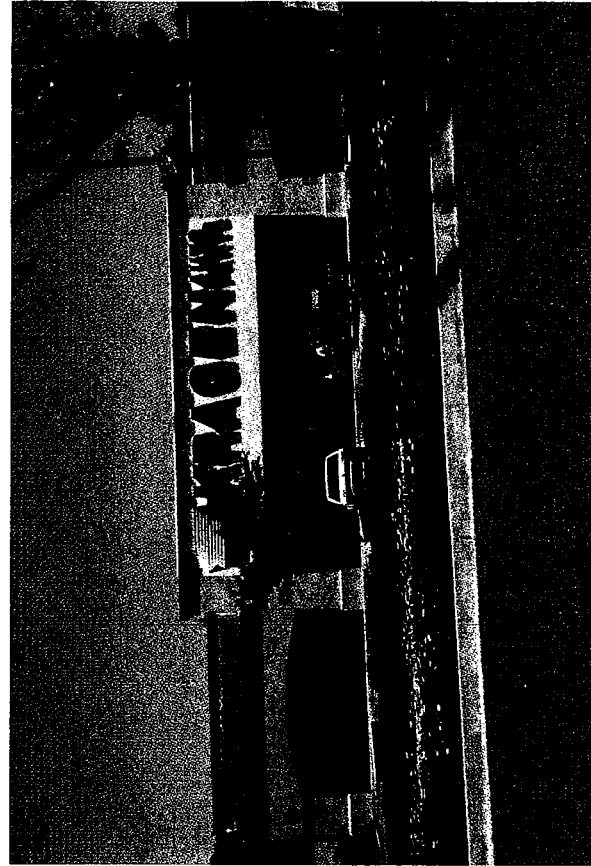
Route 66, between Pasadena Avenue and Elwood Avenue



Route 66, between Glendora Avenue and Loraine Avenue

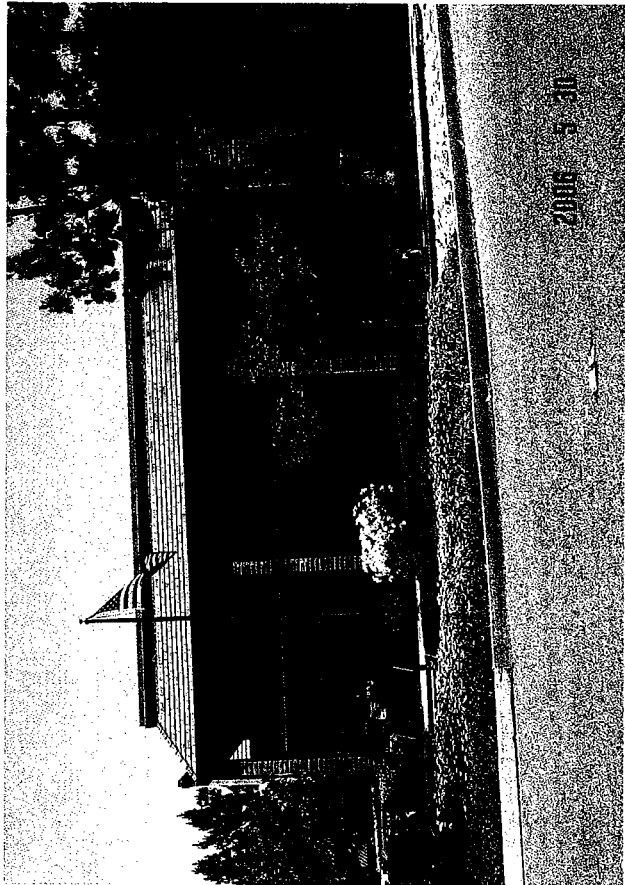


Route 66, between Pasadena Avenue and Elwood Avenue

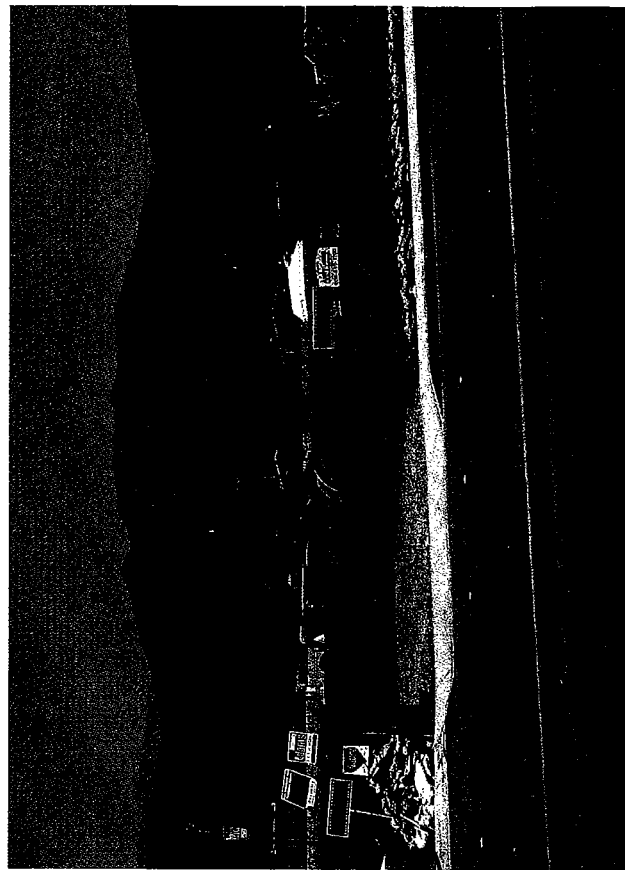


Route 66 at Glenwood Avenue

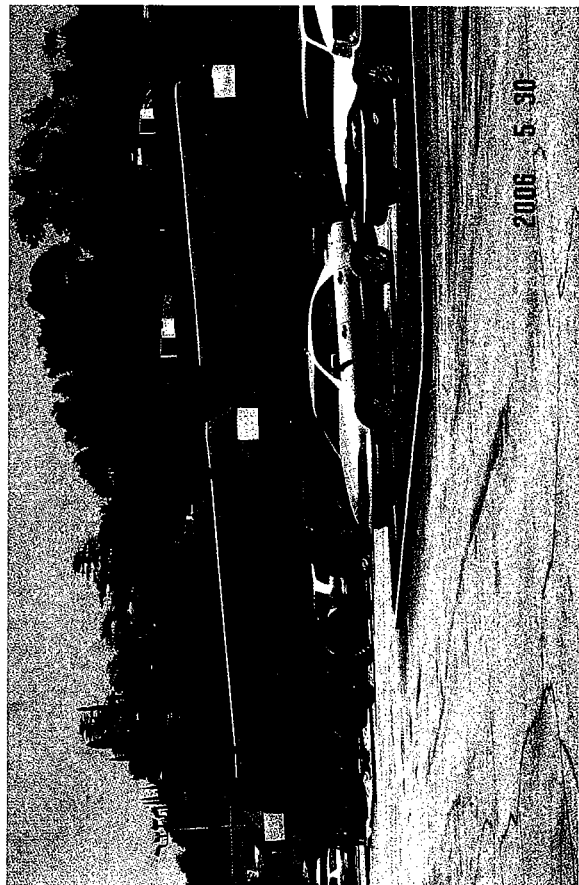
Glendora Redevelopment Project  
Project Area No. 3



Route 66 at Elwood Avenue



Route 66, between Loraine Avenue and Hunters Trail



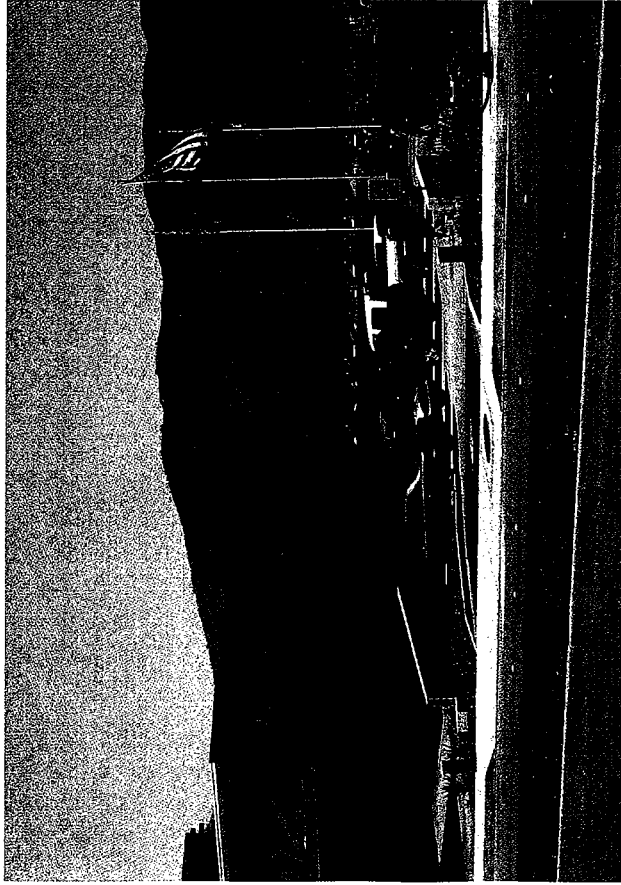
Route 66, east of Elwood Avenue



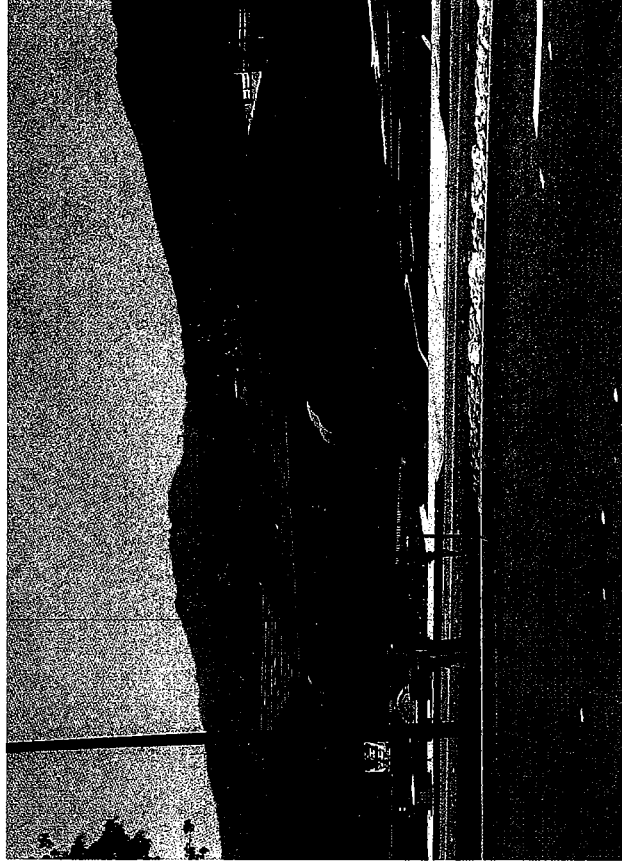
Route 66, between Elwood Avenue and Loraine Avenue

# Glendora Redevelopment Project

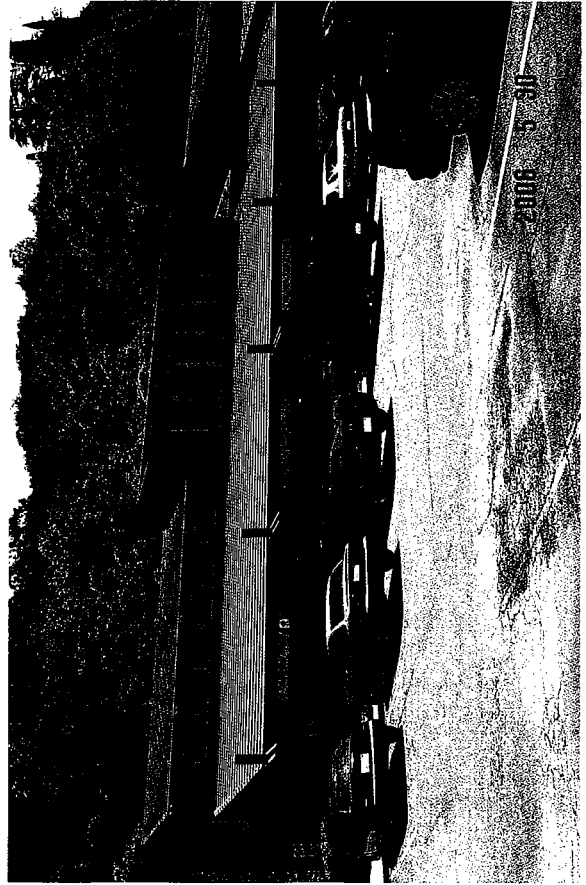
## Project Area No. 3



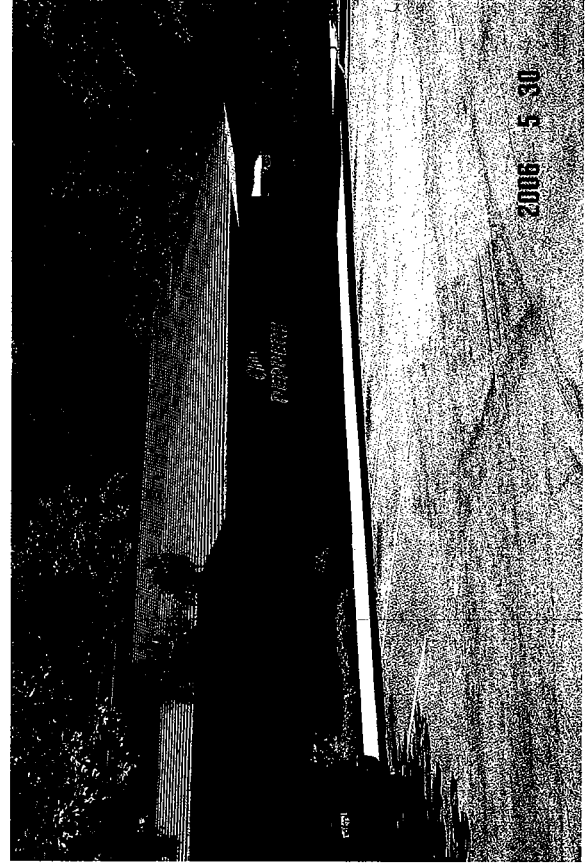
Route 66, between Loraine Avenue and Hunters Trail



Route 66 at Loraine Avenue



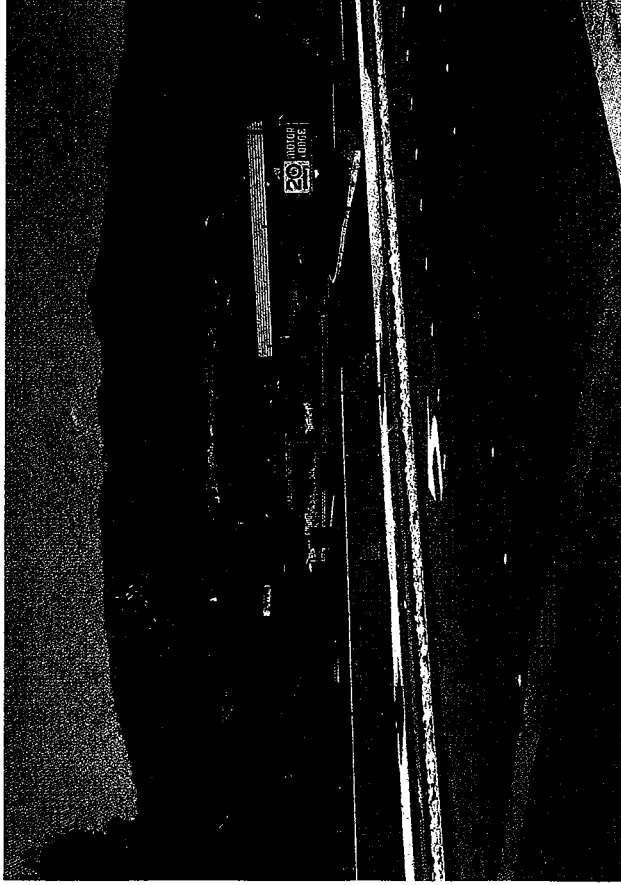
Route 66, between Loraine Avenue and Hunters Trail



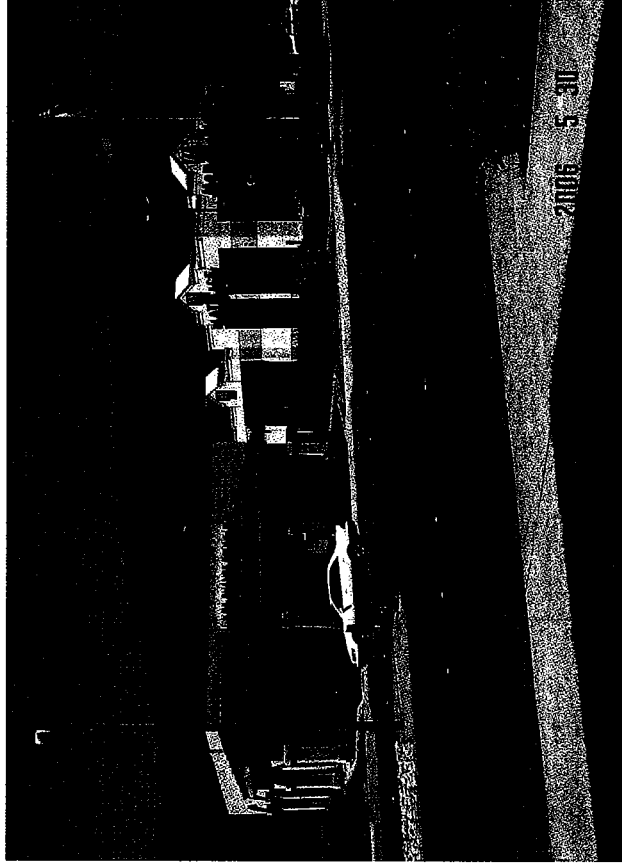
Route 66, between Loraine Avenue and Hunters Trail

# Glendora Redevelopment Project

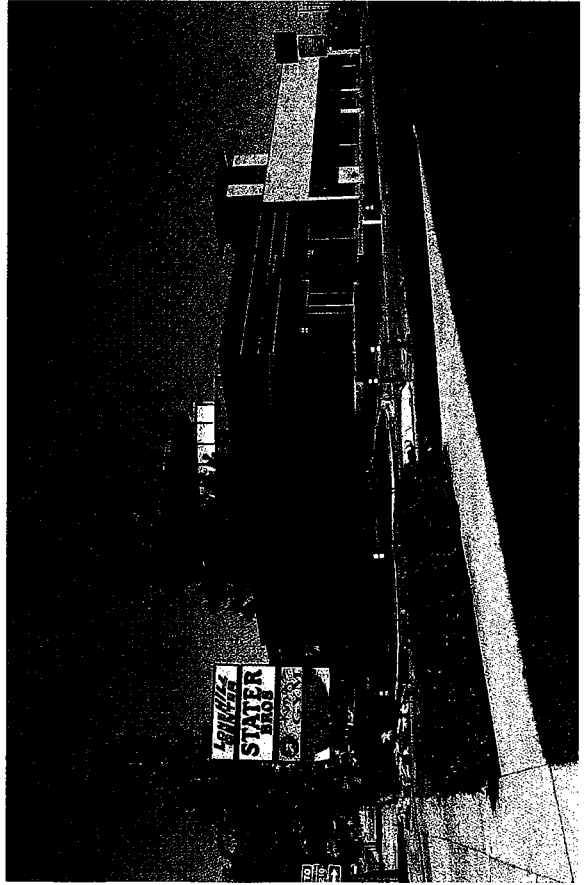
## Project Area No. 3



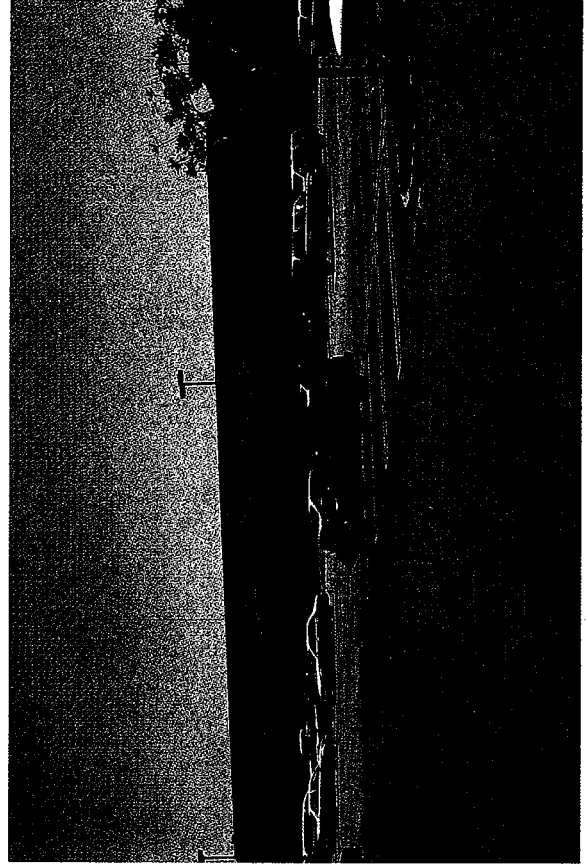
Route 66, between Loraine Avenue and Hunters Trail



Route 66, between Compromise Line Road and Lone Hill Avenue



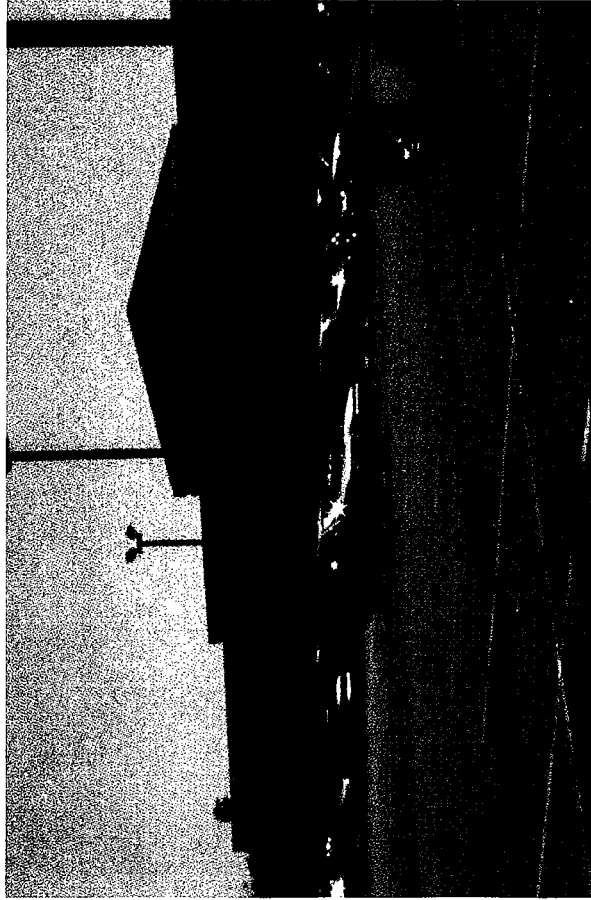
Route 66, west of Lone Hill Avenue



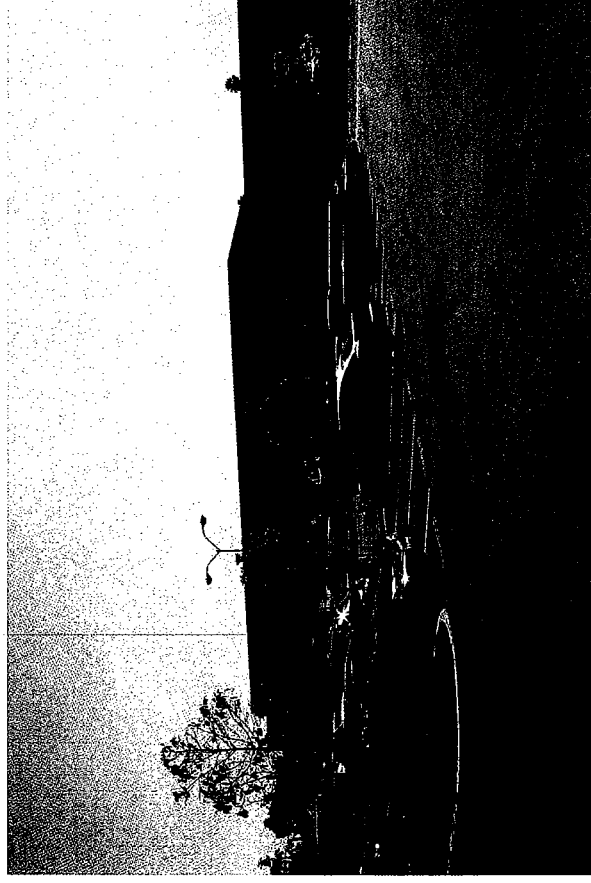
Southwest corner of Route 66 and Lone Hill Avenue

# Glendora Redevelopment Project

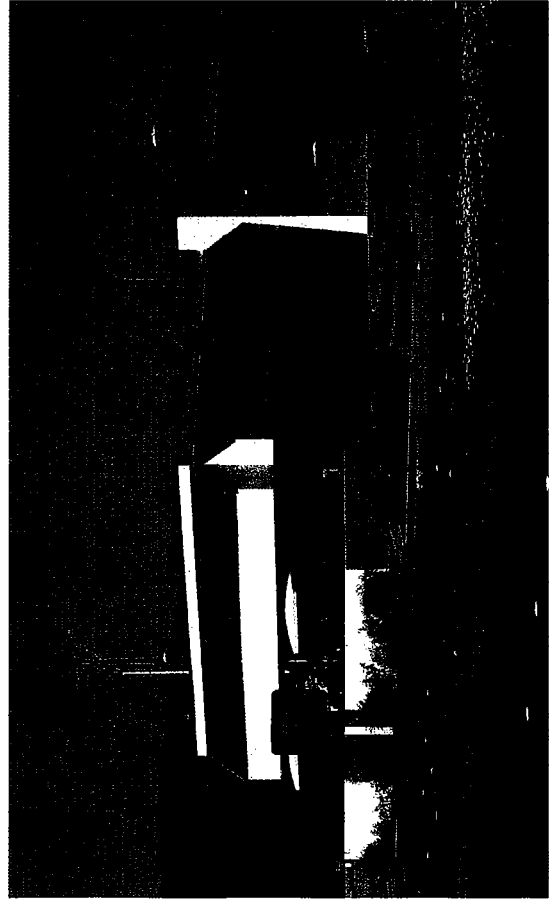
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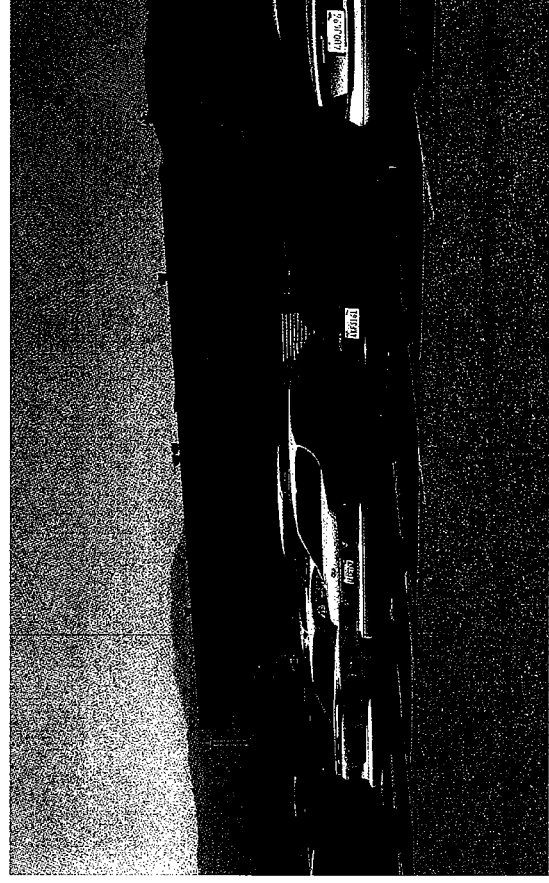
Southwest corner Route 66 and Grand Avenue



Northwest corner Grand Avenue and Mauna Loa



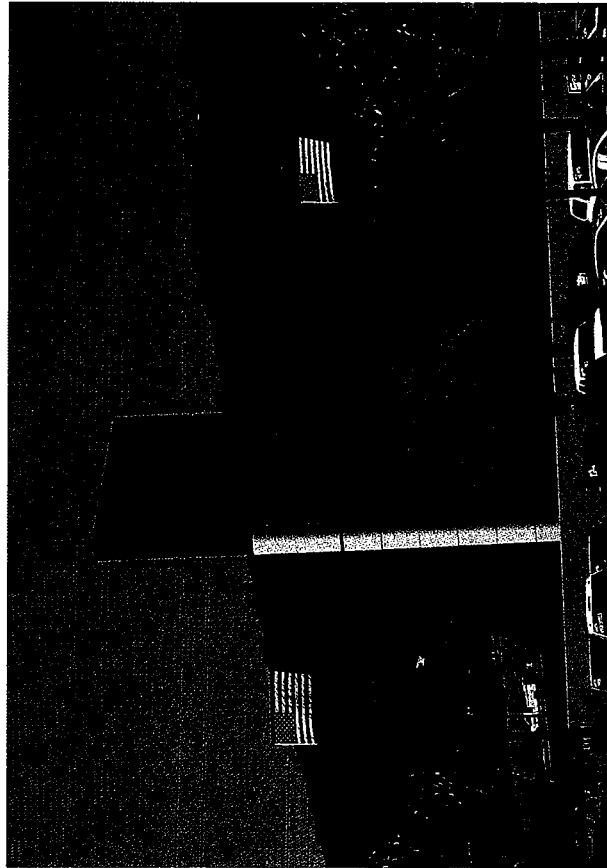
Route 66, between Mauna Loa Avenue and Grand Avenue



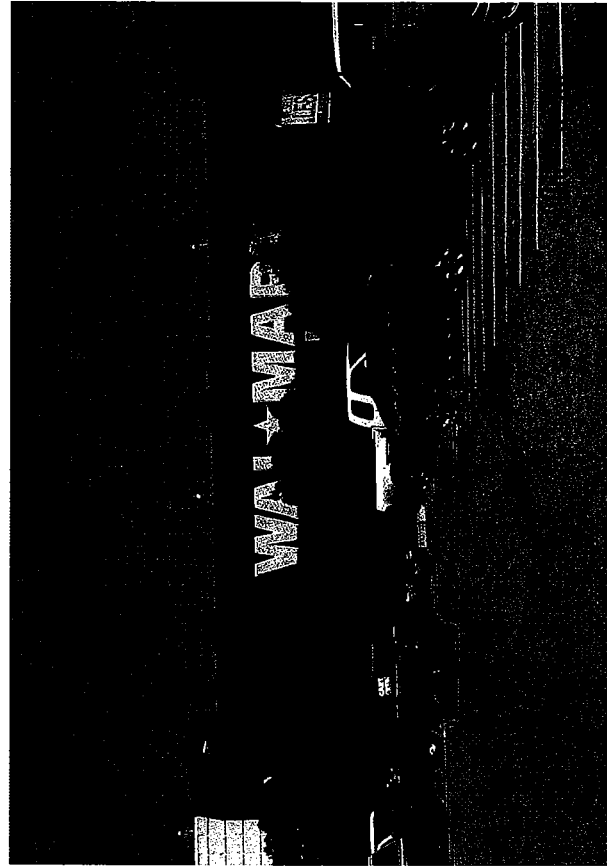
Southwest corner Route 66 and Grand Avenue

# Glendora Redevelopment Project

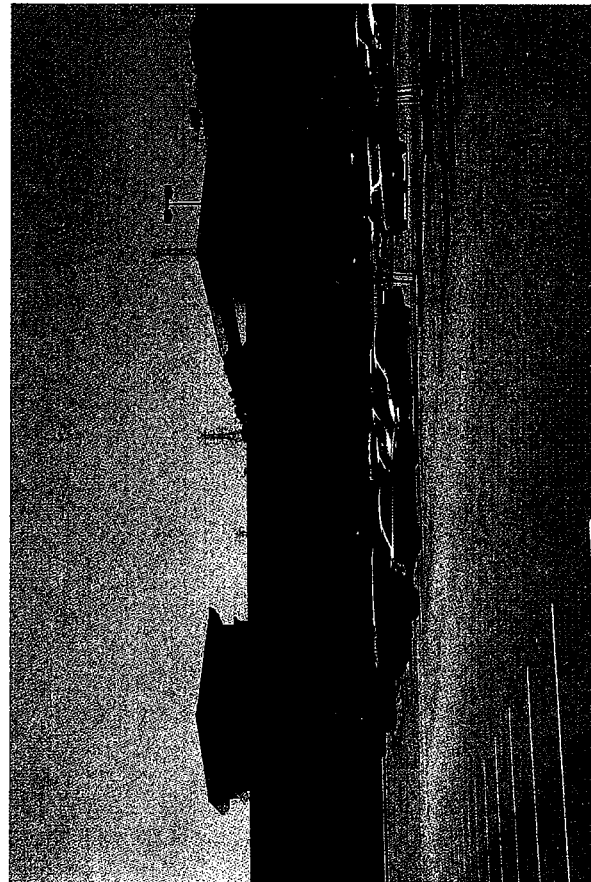
## Project Area No. 1



Foothill Freeway at Lone Hill Avenue



Southeast corner Lone Hill Avenue and Auto Center Drive



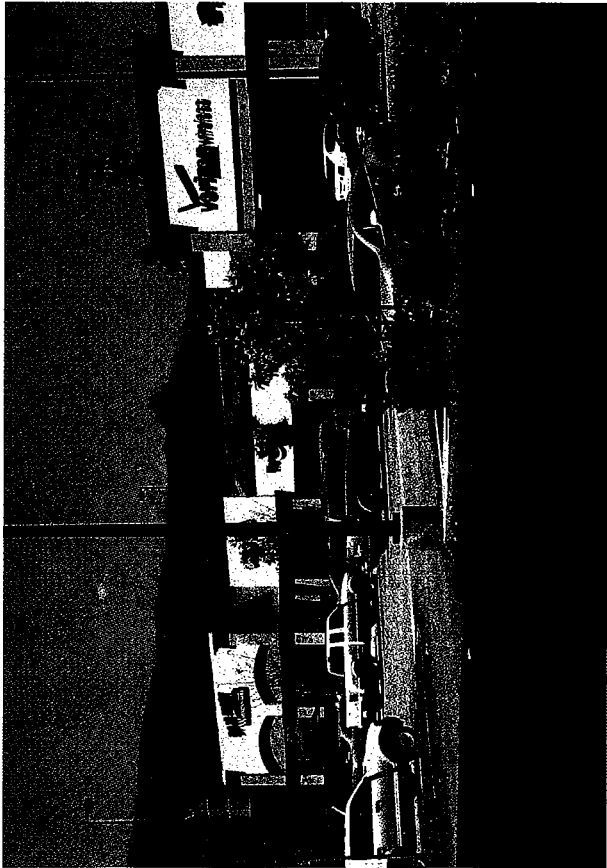
Northwest corner Lone Hill Avenue and Gladstone Street



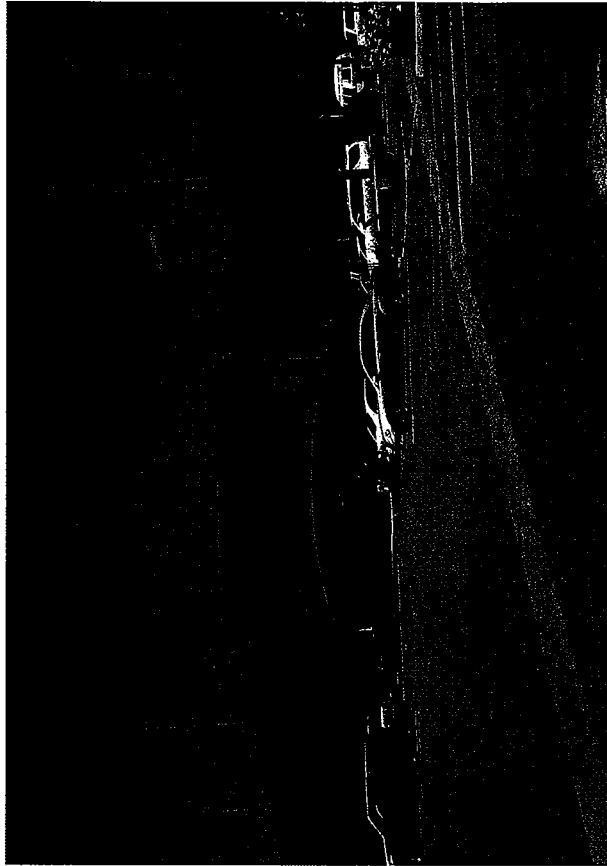
Northwest corner Lone Hill Avenue and Gladstone Street

Glendora Redevelopment Project

Project Area No. 1



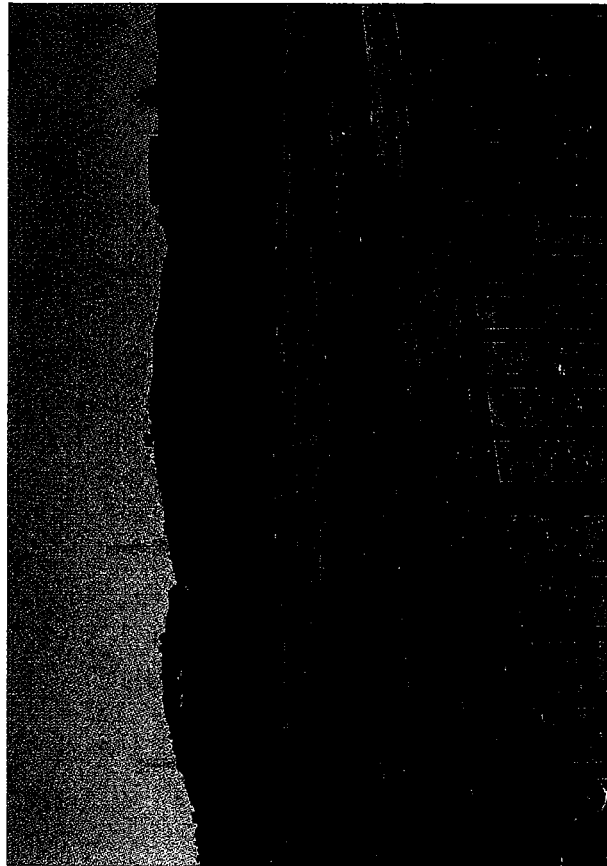
Northwest corner Lone Hill Avenue and Gladstone Street



Northwest corner Lone Hill Avenue and Gladstone Street



Northwest corner Lone Hill Avenue and Gladstone Street

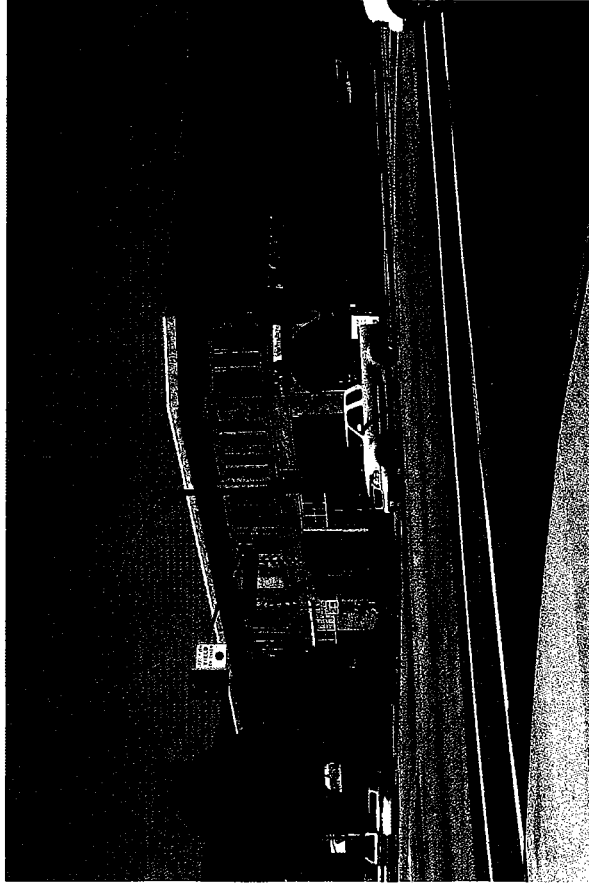


Northwest corner Lone Hill Avenue and Gladstone Street

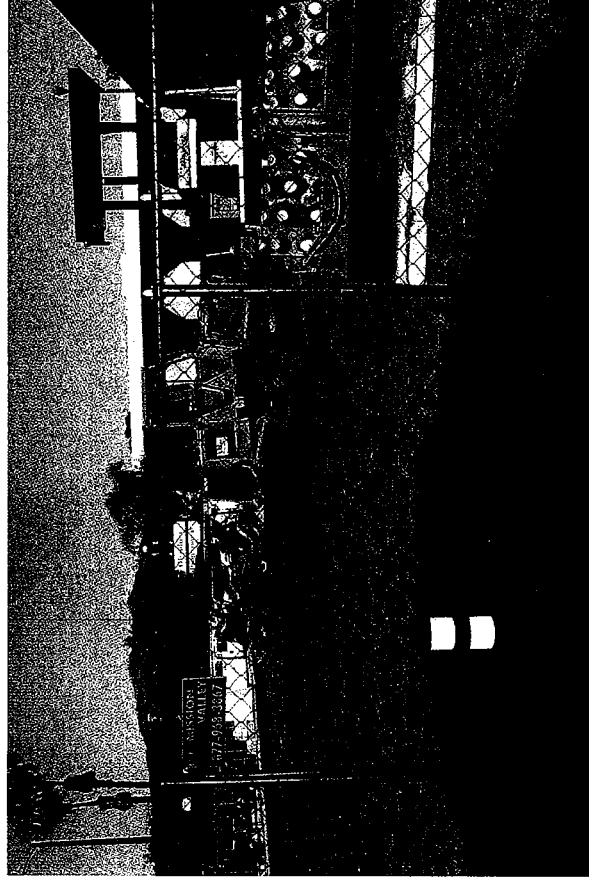


# Glendora Redevelopment Project

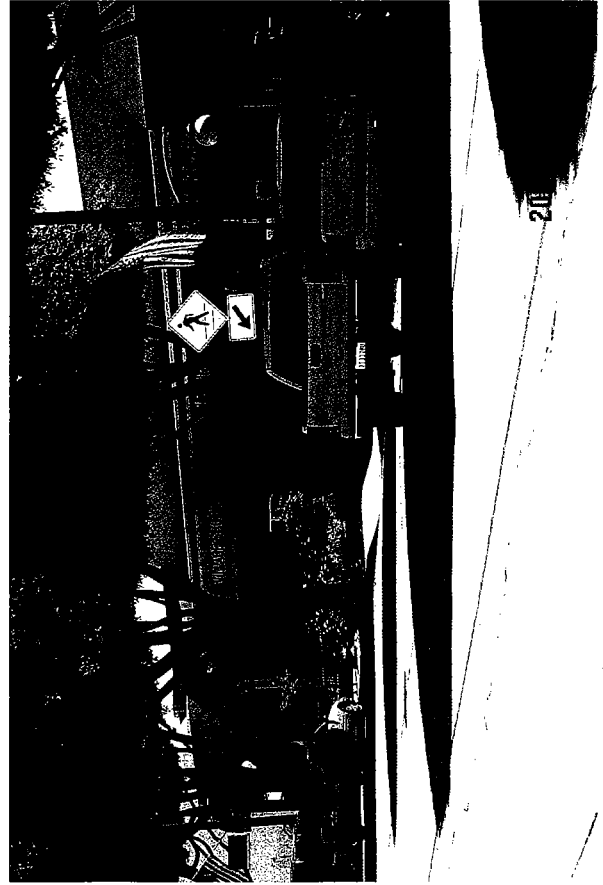
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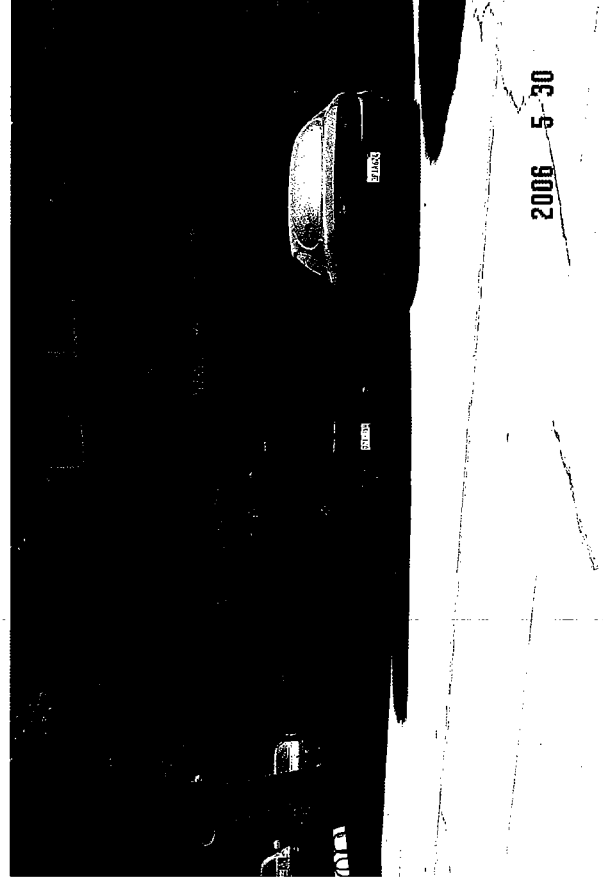
Foothill Boulevard at Glendora Avenue



Glendora Avenue, between Foothill Blvd. and Meda Avenue



Glendora Avenue, between Foothill Blvd. and Meda Avenue



Glendora Avenue, between Foothill Blvd. and Meda Avenue



# Glendora Redevelopment Project

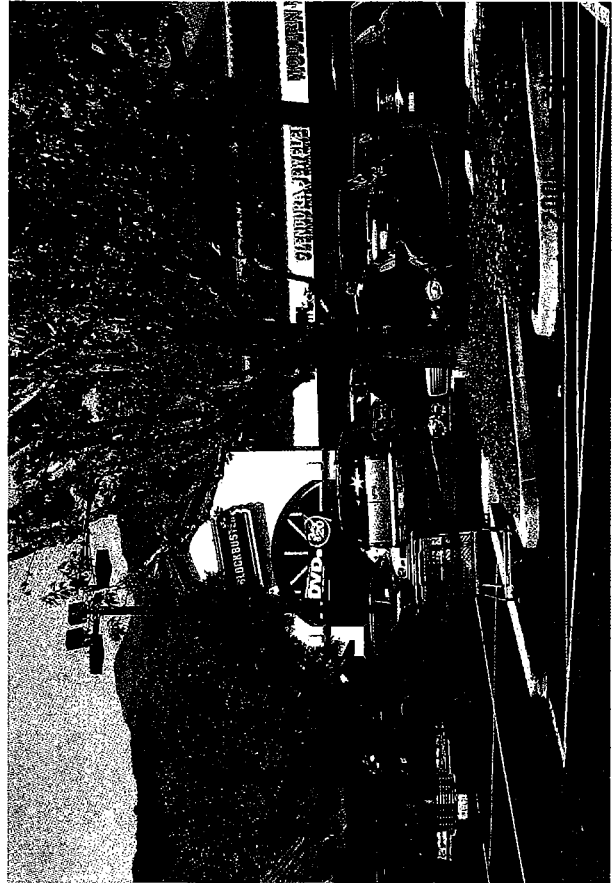
## Project Area No. 2



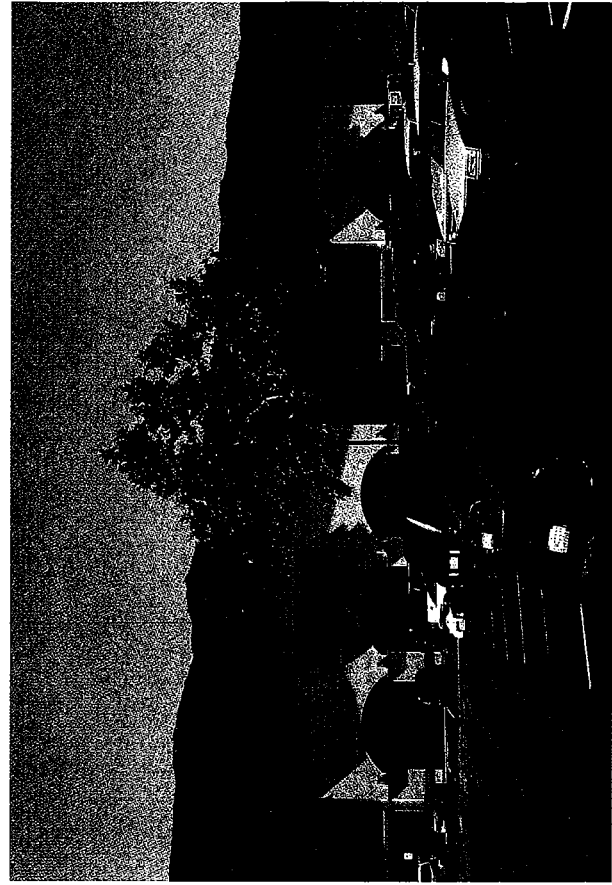
Foothill Boulevard at Pennsylvania Avenue



Foothill Blvd, between Pennsylvania Avenue and Grand Avenue

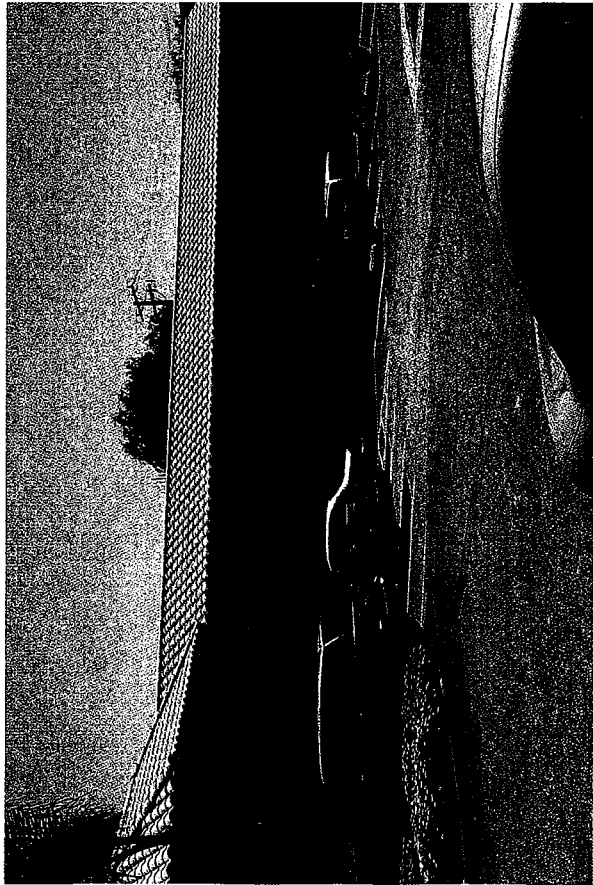


Northeast corner Foothill Boulevard and Grand Avenue



Northeast corner Foothill Boulevard and Grand Avenue

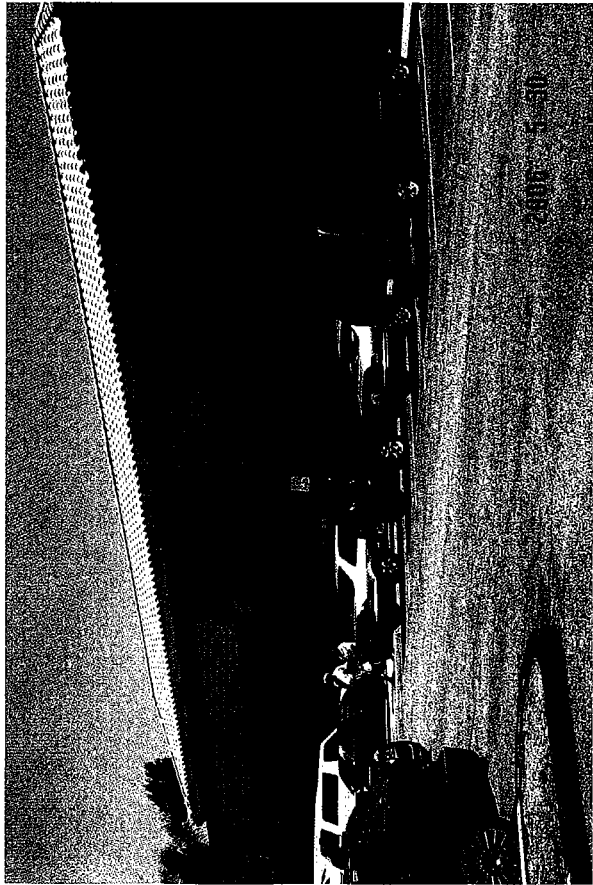
Glendora Redevelopment Project  
Project Area No. 5



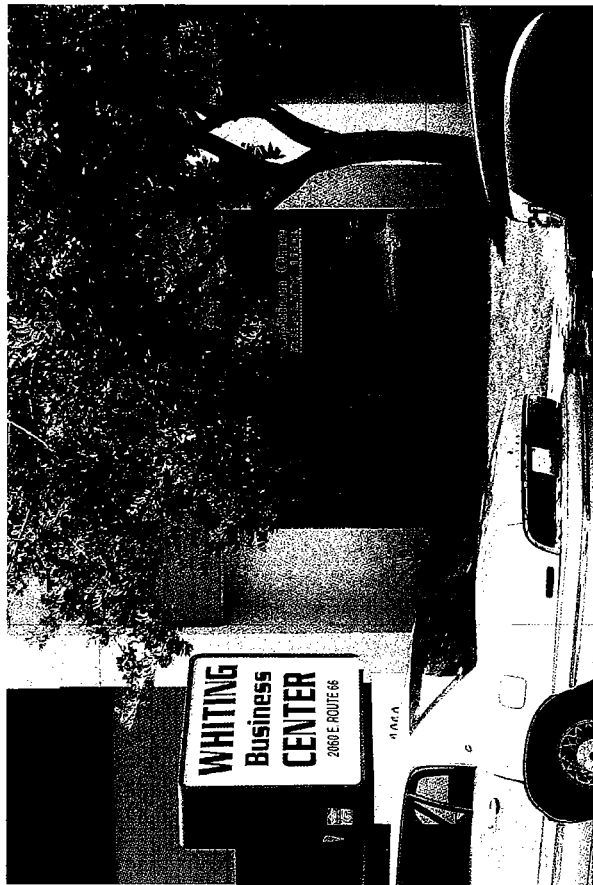
Southeast corner Route 66 and Lone Hill Avenue



Southeast corner Route 66 and Lone Hill Avenue



Southeast corner Route 66 and Lone Hill Avenue



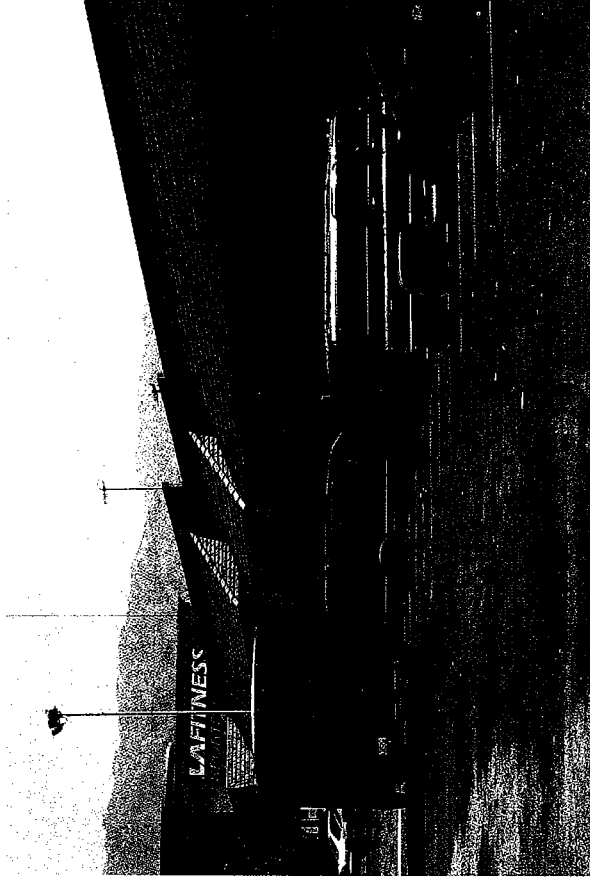
Route 66, between Financial Way and Amelia Avenue

# Glendora Redevelopment Project

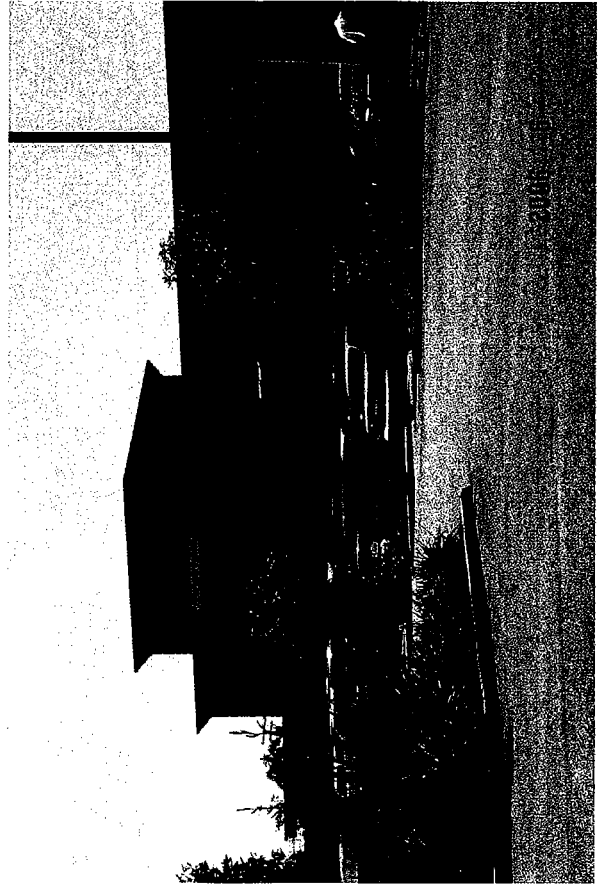
## Project Area No. 5



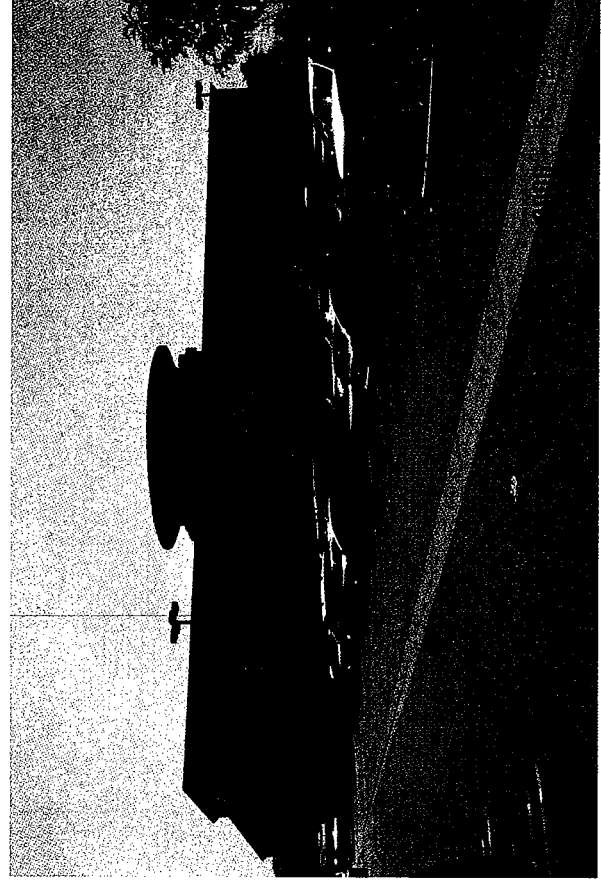
Grand Avenue, between Baseline Road and Mauna Loa Avenue



Grand Avenue, between Baseline Road and Mauna Loa Avenue



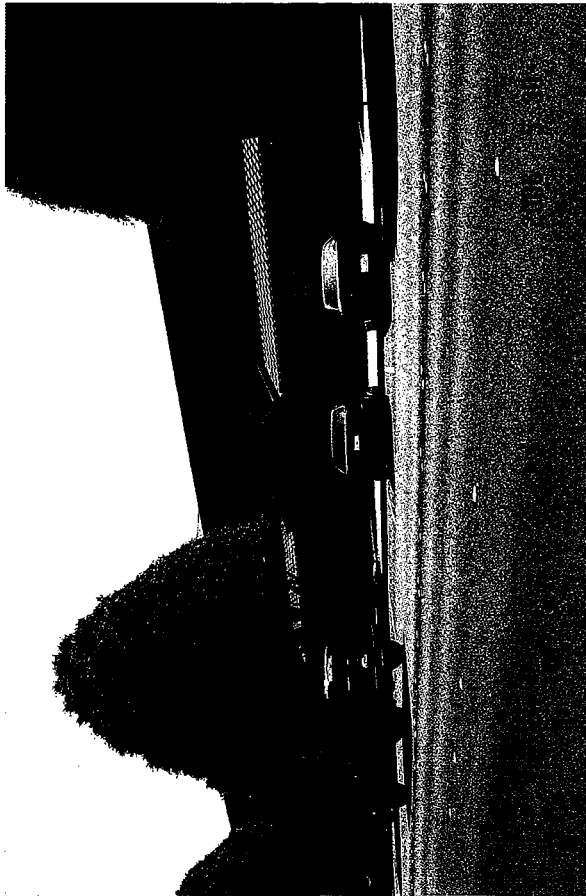
Grand Avenue, between Baseline Road and Mauna Loa Avenue



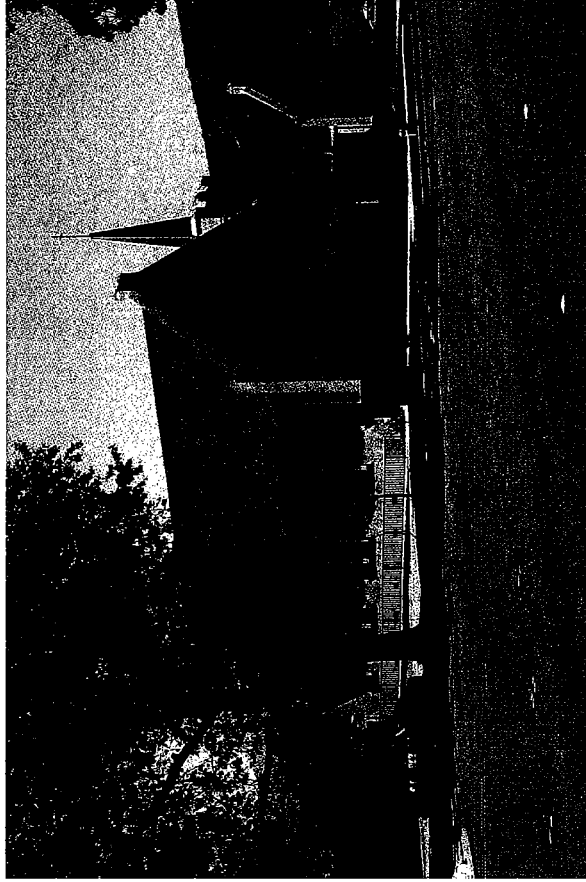
Grand Avenue, between Baseline Road and Mauna Loa Avenue

# Glendora Redevelopment Project

## Project Area No. 5



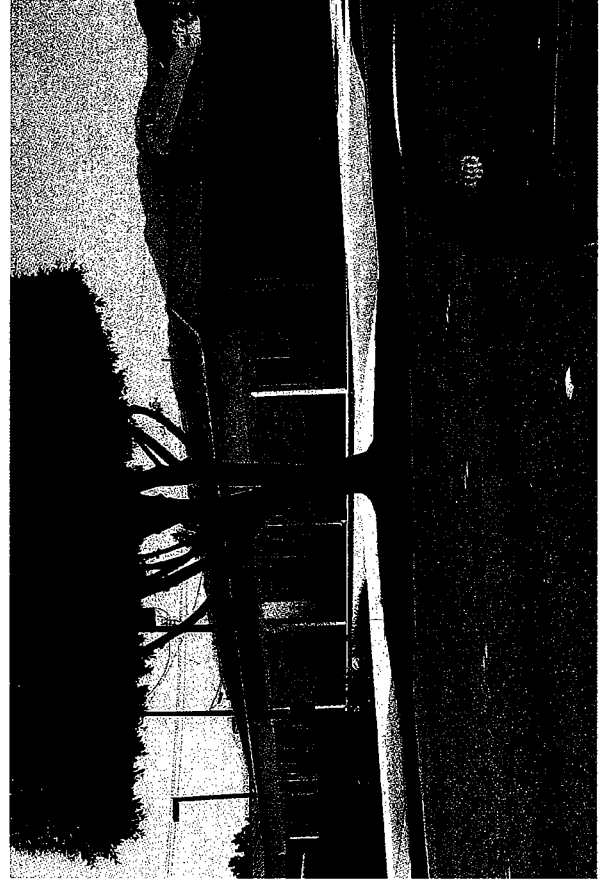
Glendora Avenue, between Myrtle Avenue and Carroll Avenue



Glendora Avenue at Carroll Avenue



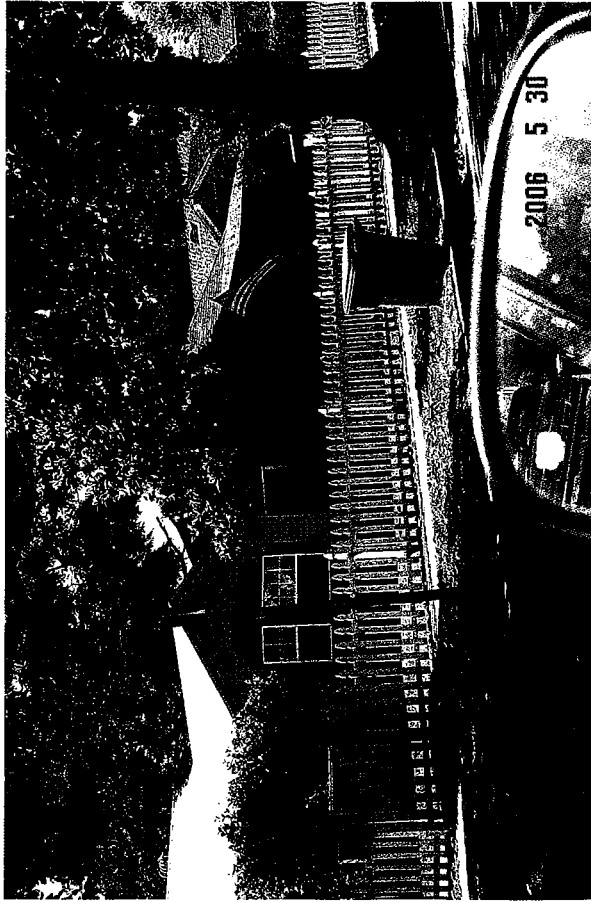
Foothill Blvd, between Vermont Avenue and Glendora Avenue



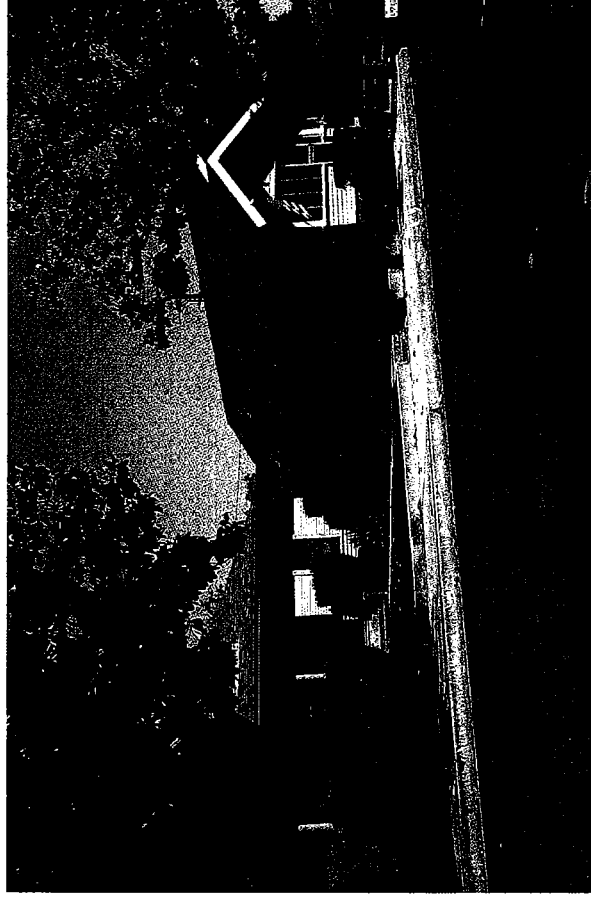
Glendora Avenue, between Myrtle Avenue and Carroll Avenue

# Glendora Redevelopment Project

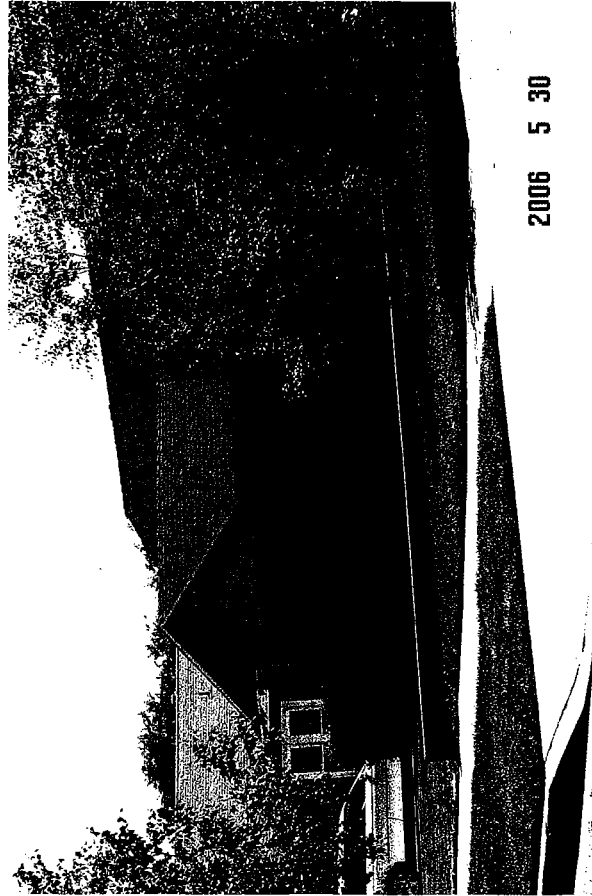
## Project Area No. 5



Vista Bonita Avenue, between Carroll Avenue and Myrtle Avenue



Pennsylvania Avenue, between Foothill Blvd. and Carroll Avenue



Vermont Avenue, between Foothill Blvd. and Carroll Avenue



Northwest corner Carroll Avenue and Washington Avenue